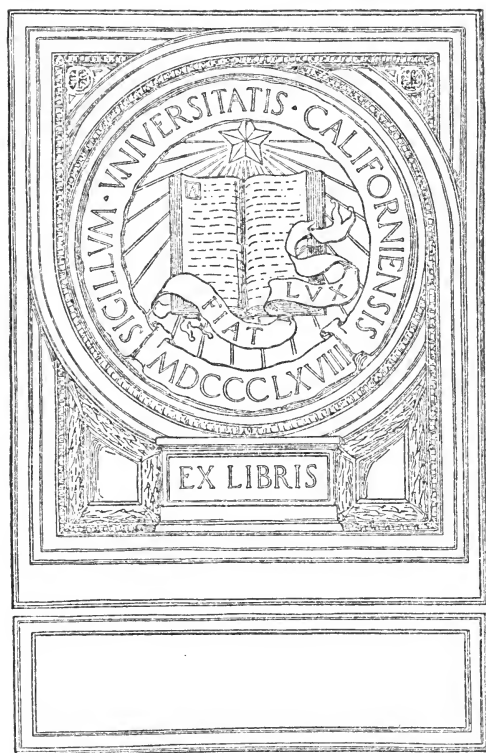


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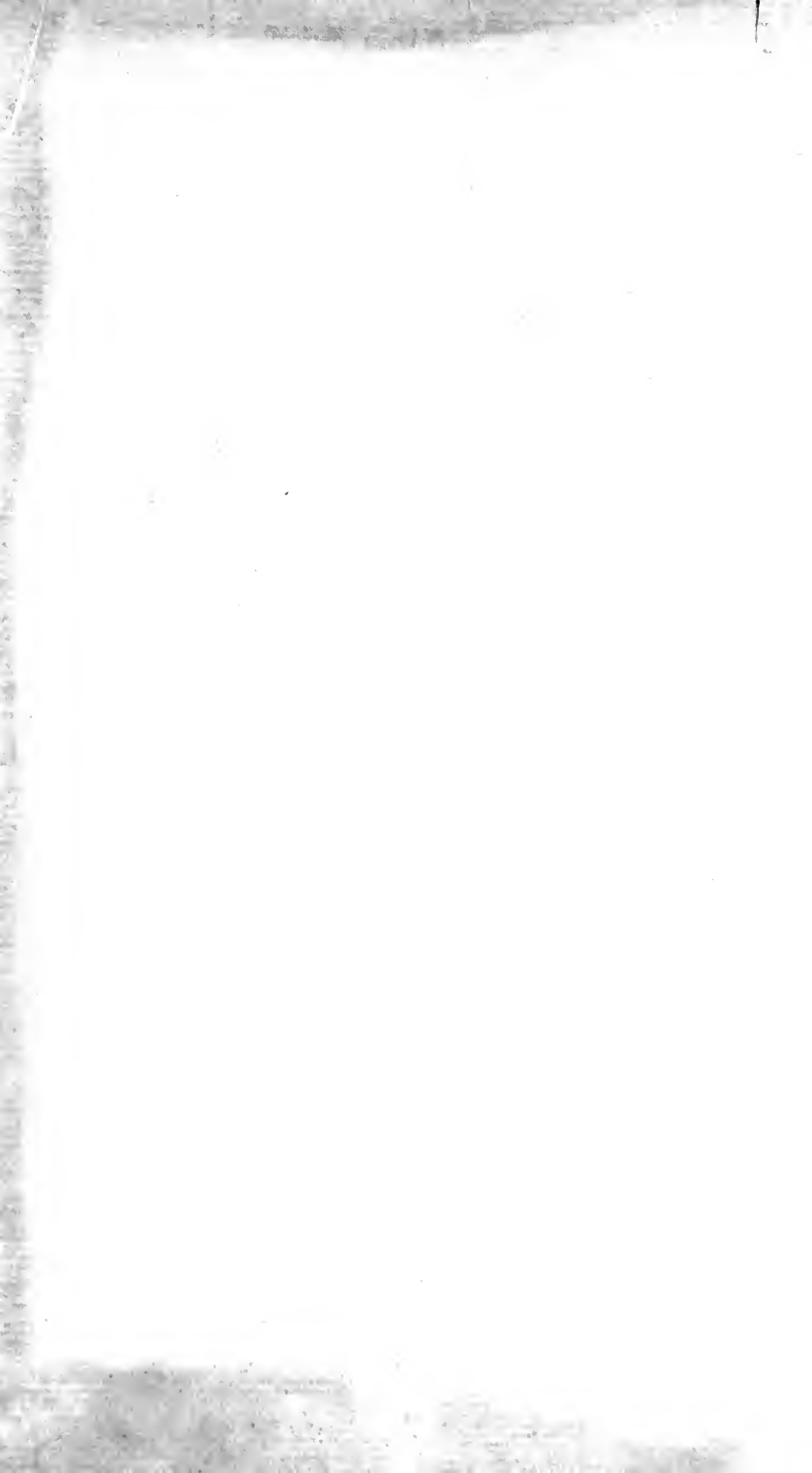
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AN ENQUIRY,  
CONCERNING THE LIBERTY,  
AND  
LICENTIOUSNESS OF THE PRESS,  
AND  
THE UNCONTROULABLE NATURE  
OF THE  
*HUMAN MIND:*

CONTAINING  
AN INVESTIGATION OF THE RIGHT WHICH GOVERN-  
MENT HAVE TO CONTROUL THE FREE EXPRES-  
SION OF PUBLIC OPINION,

ADDRESSED TO THE PEOPLE OF THE U. STATES.

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*By* JOHN THOMSON.

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*“ I will sooner part with Life itself, than with that Liberty, without which, Life is not worth the having;—I will sooner suffer my eyes to be put out, than my understanding to be extinguished.*

MILTON'S Speech on the unlicenced Liberty of the Press.

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NEW-YORK:

Printed by JOHNSON & STRYKER, No. 29  
Gold-Street, for the AUTHOR.

1801.

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THE NATIONAL BUREAU OF INVESTIGATION

UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D. C. 20535

MEMORANDUM

TO : DIRECTOR, FBI

FROM : SAC, NEW YORK

SUBJECT: [Illegible]

RE: [Illegible]

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## ADDRESS,

TO THE PEOPLE OF THE UNITED STATES.

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*FOR* your perusal the following sheets were written; therefore to you are they addressed. To such as may approve of the principles contended for, no defence is necessary. To such as disapprove, the case is the same. Leaving the work then, to stand or fall by its own merits, this address shall only state the reasons of publication at this time.

When the Alien and Sedition Laws were passed in the summer of 1798, it appeared to me, that they were the offspring of terror and party prejudice, founded upon injustice; and calculated to create more enemies than friends to the government. I conceived it the duty of every man to investigate the principles of the Sedition law in particular. At that time, therefore, I wrote a pamphlet of about half the size of the present. The Epidemic which raged so severely in the latter part of that summer, and during the fall, prevented the publication at the period intended.

From that time until the last meeting of Congress, the manuscript has lain past, without the design of publication being again thought of. Upon the Committee of unfinished business reporting their opinion of the expedience of renewing the Sedition Law, I determined upon this publication. The substance, and the principal part of the reasonings are the same with the unpublished work just mentioned; but the ar-

*rangement is entirely new, and the tenor of the reasoning adapted to the present time.*

*If the Sedition Law, and the manner in which it was carried into execution, has contributed in any degree to that change of men and measures which this day takes place; the principles contended for, cannot be deemed improper at this important period. If we have now to congratulate our country upon the expiration of this law; then surely we ought to turn our attention to the subject of free enquiry, in order to guard ourselves from being again fettered by a measure of that kind.*

*It is not to be expected that many new ideas can be found upon a subject of this nature. But, if the reasonings are just, still they may be of use to Society.*

JOHN THOMSON

*New-York, March 4th 1801.*



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AN  
ENQUIRY, &c.

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CHAPTER I.

*Licentiousness of the Press, what—By whom it is  
Complained of.—Difficulty of ascertaining what  
it is exemplified.*

**T**HE invention of Printing is universally allowed to have been of the first importance to the interests of mankind. All allow it to have been a blessing; but not a few have been bold enough to assert, that like many other blessings it has been abused: and the licentiousness of the Press, has, by certain descriptions of men, been loudly complained of. Mankind have, however, differed in opinion regarding the extent, as well as existence of this evil. By some it has been asserted, that if no checks were imposed upon the Press, its licentiousness would harrow up every root, and tear asunder with savage fury, every bond of human Society. Others however have denied the possibility of any such formidable evil, and treated these consequences as mere chimeras. Surely upon a subject where opinions are so diametrically opposite, a short enquiry into the merit of each cannot be deemed unimportant.

It is not a little remarkable that the opponents to

the Liberty of the Press, have always been found among the members of Government interested in the duration of its abuses, or of those whose actions in private life will not bear the scrutinizing eye of moral enquiry. Knowing that free enquiry would to them be extremely fatal, they wished to oppose, if possible, an insurmountable barrier to the progress of thought, and stifle the expression of public opinion; afraid, or ashamed to have their actions canvassed by their fellow men, they dreaded appearing before the bar of public opinion.

An individual who is conscious of the rectitude of his conduct;—who is satisfied of the purity of his motives; who has no other object in view but the promotion of justice, and the consequent advantage of the human race: such a character can never be afraid of public or private animadversion. As truth is his sole aim, and as man is so liable to error, or mistake, he will rather court than shun an investigation of his motives, conduct, and opinions. The more public this investigation is, the better, as he will either be corrected himself, or may by his reply correct those of a different opinion. If attacked in his private character, he has nothing to fear from the malignant shafts of envy or malice. In this case, let the accuser put his name to the accusation, and if *false*, it will be easily detected: if *true*, it cannot be too soon known. The reasoning between the actions of individuals and governments, hold good in a variety of instances; and in none more than in this. The actions of both ought to be just, and from investigation they have nothing to fear. The virtuous part of the community will always rally around the standard of truth; while the followers of vice will be few in number, as well as deficient in abilities. Reasoning in this manner, I have no hesitation in asserting—that the Licentiousness of

the Press, is a term destitute of any meaning; or, if it ever exists, like anarchy it carries the seeds of its immediate destruction along with it.

I have seen a variety of attempts to define wherein the Licentiousness of the Press consists. As before observed, they have uniformly proceeded from men who evidently wished nobody to enjoy the Liberty of the Press, but such as were of their opinion. Why will not these men allow the same liberty to others which they claim for themselves? Who conferred upon them the authority to say unto those who differ from them in opinion; "Hitherto shalt thou go and no farther; and here shall the progress of thy thoughts be stayed." Nature never conferred such a right; and reason, justice, and the uncontrollable freedom of thought forbid it.

We laugh at, and ridicule with good reason, the haughty mandates of the Popes and Councils of the Romish church, when in the plenitude of their power they commanded the people to believe a bit of half-baked dough to be the real body and blood of the Son of God; and we behold with horror and detestation the massacres and burnings exercised by them upon such as would not surrender their reason at the shrine of blind superstition, and intolerant folly. We detest the Tyranny of the Grand Seignior and other eastern Tyrants, who prohibit printing altogether in their dominions. We pretend to view with a degree of commiseration the fate of those European countries who never enjoyed the inestimable right of speaking and publishing their opinions; or, who once having had this right, are now either totally, or almost altogether divested of it. If then, thinking and feeling in this manner, we do not guard with the most vigilant care this most important right, we shall be deficient, not only to our own interest and liberty, but also to that of our

posterity; who may when it is too late, curse the memories of us their ancestors. If we allow our terrors or prejudices so far to conquer our reason as again silently to acquiesce in the renewal of the Sedition Law; or tacitly give our consent to any abridgment of the Liberty of the Press. This is the palladium of freedom, which if once destroyed, Liberty is no more.

I think I hear some worthy but mistaken individuals exclaim, "Why all this declamation? we wish not to destroy the Liberty of the Press, we only wish to correct and suppress its licentiousness. By this the barriers of liberty will be strengthened." True, they will be strengthened, but it will be a fortification from which her sons will be forever shut out; unless they storm it at the expence of oceans of human blood.

"All Nature's difference, is all Nature's peace."

And as in the natural, so in the moral world. Vain would be the task of him who should attempt to make all mankind of one opinion. Why then dare to attempt a thing which God has thought fit to render impossible? We wish no such thing, many will reply, but there are some opinions the publication of which, would be dangerous to the peace and good order of society, therefore it must be prohibited. This is the licentiousness of the Press; and this prohibition is consistent with its real liberty. Well, allow it. But where are the criterions by which you are to define this licentiousness of the Press? Produce those universal and infallible rules by which we may always know this dangerous evil, an evil fraught with such a horrid train of consequences. Let us make an appeal to the opinions of mankind in various nations. Let us see how they agree in their definitions; and we shall find them as different as their manners, customs, and languages.

Ask a native of the British dominions what is the licentiousness of the press? He will tell you (if he answers with candor) it is scrutinizing the actions of government, daring to speak differently from those in administration, presuming to say a reform in Parliament is necessary, that a republican government is preferable to a monarchical; or, having the still greater temerity to say, that the king can, may, or has done wrong.

Request a French Republican to inform you what are his ideas upon the subject? He will reply, it is advocating the cause of royalty and aristocracy; preaching up federalism; daring to call Buonaparte an usurper, or the government (what it really is) a military despotism.

Desire a Spaniard or Portuguese to answer the same question: They will tell you it is presuming to say any thing against the king, nobility, clergy, or any who are in authority; daring to express your opinions upon religious matters in public, if they differ from holy mother church!

Enquire of a Mussulman, he will tell you there is no such thing as opinion to be exercised, except by the Grand Seignior or Mufti; that all things are predestinated in the book of fate, and it is the duty of the followers of the great prophet to adore in silence, and bow down to the mortal who sends a mute with a bow string to strangle whomsoever he pleaseth.

Lastly.—Ask an Aborigine of this country to give you his opinion concerning speech and thought. If he comprehends your meaning, he will tell you to think what you please, and speak what you think.

Which of these would you choose to be regulated by in your correcting the licentiousness of the press? I believe you neither would take the Spaniard, Portuguese nor Turk. The inquisition of the *first*, and

the bow string of the *last*, would soon convince you of the error of your choice. If you be a good Republican, you will hardly admire the British doctrine of royal infallibility, or the justice of about a fortieth part of the people only being represented in the Legislature; while the majority must submit to laws they never consented to: If they express their opinions of such an absurdity, and endeavour to get the evil remedied, they must run the risk of ministerial vengeance; of being hanged, drawn and quartered; or taking a voyage to Botany Bay, in company with convicts of the most abandoned characters. Will you not, if you are a man of candour, rather approve of the opinion of the "untutored Indian." Is it not founded upon justice, and the nature of man? "Yes, but we must not allow any publication to be circulated, or opinions promulgated, which may tend to alineate the affections of the people from the government of their own choice. A liberty such as this, can never be allowed in any government." Let us then investigate this opinion with that freedom with which free men should; and that temper which an enquiry after truth deserves. Open to conviction, and having no end to gain but the advancement of justice and truth, I shall not shrink from an investigation of my opinion. If instead of the weapons of reason, the force of authority be made use of against me, I must, like the Turk, submit (though not with silence) for such a mode of argumentation is not the most likely to convince.

## CHAP. II.

*Liberty of the Press, what.—Enquiry concerning the nature of thought.—Objection stated and answered.—Omnipotence of mind.—Uncontroulable in its nature.*

**S**EEING the task is so difficult to ascertain what the Licentiousness of the Press is, let us proceed in our enquiry concerning its liberty. I have often heard that definitions upon abstract principles were both difficult and dangerous. Difficult, because as they do not in their nature admit of ocular mathematical demonstration; therefore, they never can be proved in such a manner as to acquire universal consent. Dangerous, because if not radically right, they may be apt to mislead numbers of those who are incapable of understanding abstract reasoning; and therefore, taking them upon trust, look upon them as incontrovertable. Notwithstanding these difficulties, I shall here attempt a definition of what I mean by the liberty of the press; simplified in such a manner as to be easily understood. The definition is this :

All men are endowed, by nature, with the power of thinking ; yet have they no controul over their thoughts. As no individual can prevent the operation of this principle within himself, much less can he direct those of any other person. If this is the case with one individual, it must be so with all ; therefore, no association of men, however numerous or respectable, can ever have a right to say you shall not think this, or you shall think that : this being a power which does not exist among mankind. Consequently it must follow, that men should be allowed to express those thoughts, with the same

freedom that they arise. In other words—speak, or publish, whatever you believe to be *truth*.

Let us now examine the subject agreeable to this definition.

Man, when he comes into the world, is not conscious of his own existence. Mind he has not; or if he has, it is of no use to him. It is a total blank. Destitute of thought or ideas, he will grasp at a thing that may be hurtful to him, with the same eagerness as at that which will give him pleasure. Man then, must be the creature of education. His mind is like a sheet of blank paper, upon which you may write whatever you please. Now as *thought* is nothing more than the operations of the *mind*, it must at first be excited by outward objects. These first efforts of the mind, are, however, extremely imperfect; nor is it for a considerable time that they acquire a regular form. As the child advances, every object around him is new; and he begins to distinguish between what gives him pleasure, and that which occasions pain. The mind thus set in motion, continues its operations; and as the objects are still encreasing in number, so in proportion does his ideas expand. He begins to compare and combine, but is frequently mistaken in his conclusions, and is compelled to resort to those who are older, for assistance. He probably receives the advice and instruction of his elders at first, without examination, believing them to be true. If, however, he should find that his tutors have been mistaken, and that they told him something which he found not to be true, a more minute examination takes place, and he receives with greater caution any information in a similar manner. Hence children ought always to be told the truth; for, if they find themselves deceived, their education is injured,



and their moral principles may receive a dangerous contamination.

Thus the human mind progresses; but though this be its general progress, yet there are a variety of circumstances always occur to prove, that even in this early stage of life, the mind of man is of that subtle nature, as not to be under human controul.

One child prefers a drum, his brother prefers something else. Neither of them are capable of assigning at this age any other reason, than that it pleases them. As they advance in life, they adopt different opinions; and this they can no more help, than they could preferring different play things.

Nevertheless, it is chiefly education which determines the human character; and perhaps this difference in the opinions of childhood, might be traced to this origin, were we sufficiently acquainted with all the previous circumstances thereupon attendant. In either case, it will equally serve to illustrate the subject of our present enquiry, because it shews the natural propensity of mankind to differ in opinion. So much may serve to shew the first operations of the human mind. Let us now examine the second article of the definition, viz. *That man has no controul over his own thoughts.*

From comparing this with the first part of the definition, it has a paradoxical appearance. Perhaps, however, it may upon examination be found true.

All the actions of men proceed from the operations of the mind. Pleasure and pain are the immediate determining motives. A boy is told by his father that he must not eat any unripe fruit, because it will injure his health. He has, however, frequently seen other children eat of it; and he has not been able to perceive that it hurt them; or, if he has, he has seen others that it did not hurt. In either case, if

the acid taste of this fruit should be agreeable to his palate, he will in all probability eat it if he can get it. What determines him in this case? It is because the idea of *pleasure*, predominates over the idea of *pain*; and that for this reason, the pleasure is *immediate*, the pain is to *come*; and he conceives there is a chance of avoiding it. If his determination is opposite, then the idea of *pain*, predominates over that of *pleasure*. In either case, though his mind be the active agent; it is purely passive with regard to the final determination. That is, whatever for the time being is most predominant, will determine the mind for or against the action.

The case is the same throughout every stage of our existence. A proposition is proposed to two men; they view it in opposite lights; their determinations are diametrically the reverse of each other, yet each believes his own to be most agreeable to reason. This arises entirely from the different point of view in which it appears to them. And, it follows of course, that neither party has any controul over his own thought; on the contrary, it is his thought which controuls him.

Reasoning upon this theory of the human mind, a very slight examination of the subject will serve to establish my proposition.

It has been observed by some philosophers, that no two objects in nature, were ever, or can be exactly alike. Whether this be really the case or not, I shall not at this time enquire. Upon the foregoing grounds, however, I will venture to affirm—that no object whatever, whether mental, or corporeal; ever did, or can appear in the exact same point of view, to any two individuals. In a variety of cases, both may agree in their general approbation, or disapprobation; but if their motives are thoroughly examined, they will in some shape

or other be found to differ, notwithstanding their final conclusion may agree. Hence arises that vast variety of opinions which exist in the world upon every art and science, as well as upon the actions of mankind, whether public or private. Were the case otherwise, we should see mankind agreeing in every opinion; and no sooner should a new idea be started upon any subject, than its truth would be universally acknowledged, or its falsehood immediately detected. But is this the case? On the contrary, Is not the very reverse true? Men of science have differed, and still differ in many of their opinions; and it is to this very difference, that mankind are indebted for those discussions which have from time to time agitated the scientific world, and to which are justly to be ascribed, the gratitude of mankind for the superlative scientific advantages they now enjoy. No danger is ever apprehended from discussions of this kind; and if the same unrestrained freedom were permitted in political and all other investigations, the same beneficial effects would follow. If all political opinions, and discussions upon those opinions had been thus viewed, then neither sedition nor alien laws would ever have disgraced the American code.

Government then ought no more to interfere with the discussion of politics, than with that of any other art or science. Were this maxim adopted, all such discussions would be equally harmless. As man individually has no controul over his own mind, so it must follow of course, that he never could have delegated that to a government, which he did not himself possess. As well might I say to my neighbour, I will give you a million of dollars, when I have not a cent in the world. It is like the poor maniac in bedlam, who believing himself to be the Pope, granted pardons and indulgencies; and gave

away empires, kingdoms and provinces every day, while he himself was confined to a cell and straw with bread and water.

But who are the government? Are they not men like ourselves, subject to the same passions, liable to the same errors, and whose minds must go through all the mechanical progress of our own? If then they are not in this respect superior to their fellow men; and if their constituents possess no power over their own individual mind; if they of course cannot give that power to the members of government; by what right moral or divine, abstract, or positive, can government exert such a power over their fellow citizens? Surely that government which imposes, or attempts to impose, restrictions upon the expression of sentiment, or interferes in the direction of opinion; such men exercise a power they never received, and which from the nature of things they never could receive. They attempt to exert an authority over the minds of the community, and yet they possess no such power over their own.

An objection may be stated against part of this reasoning, which to some may appear unanswerable. It is this: "You say that man cannot give a power to government, which they do not individually possess. No man is endowed with sufficient power to repel all the aggressions to which he may be exposed from those who are stronger in body, but less honest in principle; therefore, man not possessing individually any such power, they cannot delegate that power to government."

In answer to this objection, it may be replied, that the two cases are by no means similar. All power which is delegated to government, is upon the principle of uniting the force of the society in one common centre, for the mutual benefit of the whole, and to protect the strong from tyrannizing over the weak.

It is also empowered to call forth the united energies of the people, in case of foreign invasion. Now we all know, that no single individual of the community can do any of those things himself; nevertheless, the united delegation of the people can. It is only concentrating a force which they mutually possess, that it may be exerted so as to answer the end proposed. But in the case of public opinion, or any attempt over the mind of man, the means never could be sufficient to answer the end.

Suppose that a majority of the people of all the states of the union should agree to confer the right, or power, upon the Federal Government of calling themselves omnipotent and infallible. Suppose also, that along with this, they were told they should pass a law making it death for any person in the United States to think otherwise. Could such a law ever answer the end? No. For though it might shut the mouths of the remaining part of the people, and stop their pens upon the subject, it is altogether impossible they ever could believe it. The human mind would still continue its operations. It would compare and combine facts and circumstances. It would involuntarily approve or disapprove of every act of the government, and though prevented from publishing its opinions, would still believe a spade to be a spade, and the Federal Government to be composed of men, of men who in accepting such titles, were guilty of impiety unequalled, but by that part of the community who conferred them. Allow me to add, such is the omnipotence and uncontrollable nature of mind, that no power less than OMNIPOTENCE itself, is competent to the task of guiding or directing it. It is uncontrollable by all but HIM who made it what it is.

The omnipotence of mind may seem to contradict that part of my definition, which says, that man has

no controul over his own thoughts. This however is *one* of the reasons of its omnipotence. It is likewise so upon other accounts. A man wherever he is, can, by an exertion of his mind, be transported in idea to the most distant part of the globe;—to the utmost limits of the universe;—nay, to the empyrean itself. He can by the mere fiat of this mighty power not only recall from the dead his most intimate friends, but he can converse as it were with those who lived thousands of years before himself had an existance. He can by the operations of his mind recall the days of old, and the occurrences of other times. The mind reviews the horrors and misfortunes that it has experienced, and it suffers again. The mind recalls the pleasures that are past, and glows with renovated joy. The mind surveys the past, and anticipates the future, and feels the alternate agitations of hope and fear. In all these, mind is omnipotent; in all these, mind is uncontrollable. As well might government enact a law prohibiting mans mind from these operations, as from any other. As *vain* would be the task as to attempt to confine the lion with the spider's web. As *wise* as the scheme of the men of Gotham, who, in order to confine a Cuckow, planted a hedge round their town.

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### CHAP. III.

*Free discussion.—How viewed by the framers of the Federal Constitution.—Objections to the foregoing reasoning stated and answered.—Sedition Law in the hands of government like Jupiters thunder.*

**I**F such be the construction of the human mind; if such is its uncontrollable nature even to the

individual himself, the absurdity of others directing its operations will doubtless be admitted : Governments can then have no such right, if they had it, it would be extremely injurious to their interests ; for, if it be admitted that free discussion has been of advantage to other sciences ; then why may it not be of equal advantage to the science of politics ? The most violent advocate for the sedition law will surely acknowledge, that had it not been for *discussion*, these States had never been in a situation to have asserted and gained their independence. Had it not been for *discussion*, the Federal Government never would have existed. Certain it is, that the convention who framed this instrument, either were, or appeared to be, fully impressed with the importance of unrestrained discussion.

In the first article, and sixth section of the constitution are these words :—“ And for any *speech* or *debate* in either house they shall not be questioned in *any other place*.” Thus have our Legislators secured to themselves the right of free discussion in their legislative capacities, and the people of the United States have guarrantee’d this right by their acceptance of the Constitution. If then those men are at liberty to say what they please in Congress, why should they abridge this right in the people ? By what principle of justice or equity is it that the people ought to submit to such restrictions as have been imposed upon them by the late Sedition law ? Why should they who are the *servants* or *agents* of the people ; who are paid by the people for their services, why ought they to impose restrictions upon the thoughts, words, or writings of their sovereign ? That power who has created them, and can by a fiat of its will, reduce them again to the level of private citizens. If free discussion be advantageous to them, it must be equally so to the people. Without this

right being exercised in the unlimited manner secured by the Constitution, the two houses of Congress could not exercise the functions of a Legislative body; and without it is enjoyed by the people in the same way, ignorance and despotism would soon be the inevitable consequence. For, if it be necessary for the one, it is equally necessary for both. The words of the Constitution before quoted, proves this position. It is founded upon the very natural and just supposition, that among such a number of individuals, a great variety of opposite opinions must occur. It also presupposes that the *people* would pass their judgment upon the proceedings of Congress. As in passing judgment upon what they said in the course of debate, something might occur tending to displease either *states or individuals*, it was proper to guard the members of Congress against any other judgment than that of reason, and public opinion. If such be the necessity of the case to the government, (as before observed,) it is equally so to the people; and it is a fair deduction to suppose it was contemplated that the same right of free discussion should be guarantee'd to the people, in as much as it is expressly said in the twelfth article of the amendments to the Constitution, that "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." No article of the Constitution ever abridged this right in the people, and so far from being delegated, it is expressly secured to them by the third article of the amendments.

I am aware that part, if not the whole of the above reasoning may be controverted, and a conclusion directly opposite may be attempted to be drawn. It may be said, and it has been said, that this very clause in the Constitution was intended to



protect members of Congress from all animadversions upon their conduct, through the medium of either speech or press. The days of terror to the honest republican it is hoped now are past ; and political delusion is near its end. Such an argument will never be made use of by any, except those who may prefer sophistry to reason. It is evident both from the *words* and *spirit* of the constitution, that the members should not be prosecuted before any court or tribunal for an opinion delivered in the course of debate. It never could mean that the people in their individual capacity were not to exercise their judgment ; neither could it have been intended to prevent the free operation of that judgment either by *speech* or *press*. The article in the amendments to the Constitution, which was *intended to secure* the Liberty of Speech and Press, shews it was understood in this way, by Congress themselves, as well as by the State Legislatures who ratified those articles. Even the British Parliament, who claim the proud title of omnipotence, never claimed an exemption of this kind from public censure. Pit, Dundass, and all the other members of the British administration, daily see their actions and speeches animadverted upon with great freedom, and sometimes even with severity.

Government is ostensibly for the benefit of the *governed* ; not of the governors. That the reverse has often been true, does not overthrow the truth of the general position. The government of the United States is founded upon the acknowledgement of the people, being the sole, and only fountain from which all their power and authority are derived. It is the creature of the people ; the people are not the creatures of its will. The Executive and Legislative, both are from the same source. If so, is it not then absurd in this government to say

unto the people—" You shall not think this, or that upon certain subjects; or if you do, it is at your peril. We shall certainly punish you for such conduct. It is true, the freedom of Speech and Liberty of the Press are secured to you by the Constitution, but it is *us*, who are to determine how far this is to be exercised. If we find you too bold in your language, or too free in your enquiries concerning our conduct, we will shew you that we have *power*, and it shall be exerted.

In any government which pretends to be actuated by the principles of justice or liberty, such language would be absurd. What then shall we say of the government of the United States; that government which owes its origin and its existence to the voice of the people, if such language is made use of by them? What is the amount of the late Sedition law? It is this. " You citizens of the United States, shall believe that all we do is right; if not, you shall be fined, and imprisoned. Your understanding we despise; argument we will not bestow upon you; coercion shall convince you." This is surely the language of despotism, not of reason. A government fenced round with penal codes, and Sedition laws, must surely repose but little confidence in their own claims to the approbation of their fellow-citizens. It is like the countryman and Jupiter in the fable, as related by Lucian. These met upon the road, and entered into a conversation upon the subject of heaven and earth. Jupiter asserted a variety of circumstances concerning these, which the countryman doubted, and demanded some reasons and proofs, before giving his assent to them. This Jupiter refused to give, and flew into a violent passion, threatening him with his *thunder*. " Ah! ha!" says the countryman, " now Jupiter, I know

you are *wrong*, you are *always wrong* when you *appeal to your thunder*."

May we not apply this to every government who attempts to enforce respect from any other source, than the involuntary applause which virtue and rectitude alway can command? This approbation a virtuous people will at all times willingly bestow, and a virtuous government will be fully satisfied with receiving.

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#### CHAP. IV.

*Four propositions stated and examined.—Nature and design of CONSTITUTIONS.—Their obligations upon the government.—Opinion of Dean Swift upon this subject.—Of Camillus.—Deductions from those reasonings.*

**T**HE absurdity of government attempting to enforce approbation, or to silence animadversion, will perhaps, appear more forcibly by the statement, and examination of the four following propositions.

1st. Either the government are appointed by the people, or they are not.

2d. Either the government are bound by those rules the people have prescribed, whether by *written Constitutions*, or by long established customs, or they are not.

3d. Either the administrators of government are bound by the rules of *Eternal justice*, in their *public*, as well as *private* capacities, or they are not.

4th. Governments are either the *servants* of the people, or they are their *masters*.

Let us shortly consider and examine each of these propositions in order.

And first, That the government of the United States was appointed by the people, is an uncontrollable fact. The natural deduction from this is, that being so appointed, they never could receive an authority for exercising any power, which the people do not aggregatly themselves posses. Consequently, as has been before observed, the people not being in possession of any controuling power over their own thoughts, never could have delegated that which they themselves did not, could not have.

The only question then is this: Is, or was, the Sedition Law an attempt to controul public opinion, and prevent its free operation? If it was not, then government have not acted upon any unconstitutional grounds; but if it was, then was it in contradiction to an express article of that Constitution.

Second. *Either the government are bound by those rules the people have prescribed; whether by WRITTEN CONSTITUTIONS, or long established customs, or they are not.*

All governments which have existed, have pretended to be guided by certain primary rules or customs. The Federal Government is bound by a **WRITTEN CONSTITUTION**, one of the articles of which is in these words: "*Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, OR ABRIDGING THE FREEDOM OF SPEECH, OR OF THE PRESS, or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.*" Article 3d of the amendment to the Constitution of the United States.

I have quoted the whole of this article, in order to shew it as it is; it is however only a *part* of it which is necessary to be appealed to in the following reasoning.

The first thing here to be considered, is, whether the Sedition law is or is not a law which tends to abridge the freedom of speech, or of the press. Let facts bear witness. What was James Thomson Callender prosecuted for at Richmond? For publishing his opinions through the medium of the Press. What was Charles Holt, the Editor of the New-London Bee, prosecuted for? Because he published the opinions of another person. What was Thomas Cooper prosecuted for? For publishing his opinions through the same mode of communication:—viz. the *Press*. If these prosecutions were not for the *publication of opinions*, then the Constitution has not been violated by them; but if they were for *opinions*, (and that they were those trials will testify,) then the Constitution has been violated, both by the Sedition law under which they were convicted, and by the prosecutions themselves. It is absurd to say they were convicted for libellous and false publications, and that this very law allows the truth of the publication to be given as exculpatory evidence. J. T. Callender was refused by the court that time which was necessary to bring his evidences forward. To tell a man that he has a *right*, and to refuse him the exercise of that right, is an insult to the common sense of mankind.

It has been maintained, that the Sedition law was not unconstitutional, notwithstanding what is said in the before quoted article. In support of this opinion, the eighteenth clause of the eighth section of the Constitution, Article first has been adduced. It says that the Congress shall have power "To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or officer thereof."

This it must be confessed, is what it has often been called "a sweeping clause." It has not, however, been proved that it empowered Congress to restrict the freedom of Speech or Press. Until this can be proved, all the reasonings upon that clause in favour of the Sedition law, must fall to the ground. It is surely paying a very scurvy compliment to the federal government, to say that it was necessary to have a law passed to protect any of the members from the free animadversions of their constituents. Oliver Cromwell ordered those things better. When he had seized and detained the manuscript of Harrington's *Oceana*, the author one day took the opportunity of seizing, and running off with a child of the Protector's daughter. He was taken and carried before Cromwell, who questioned him concerning his motive for so uncommon an outrage. "You have taken *my child* from me," said the undaunted republican. What child? "My *Oceana*." The Protector laughed, and ordered the manuscript to be given him, observing at the same time, "that his government was surely proof against *paper* shot."

If such was the opinion of a Tyrant and Usurper, how ought those to be ashamed who assert that the federal government is in danger from the same sort of ammunition; and that too, from the very people by whose consent it exists, by whose will it had a beginning?

Let any unprejudiced person compare the law, and the manner in which it has been carried into effect, with the Constitution, and then say whether the one be consistent with the other. Supposing only, however that it should be inconsistent with the Constitution, what would then be the consequence? If the people are satisfied it is enough, at least, for the government. While the people submit to it

from choice, no one, can have any thing to say between the government and them. It would be a pity to compel those who are willing to be slaves, to become free men. If on the contrary, the people are not satisfied, a contest of some kind or other must inevitably take place between the governors, and the governed. The issue of such contest will be one of two things. Either the government will compel the people to submit to their decision, or the people oblige the government to be directed by the public will. In either case the *Constitution would be violated*; no matter in how small, no matter in how minute a part. Like the great system of nature

“Tenth, or tenth thousandth breaks the chain alike.”

For, if the government should attempt to palliate or defend their conduct in this case, it would not change the nature of the principle. Suppose they were to say, “It is an extraordinary case—the country is in great and imminent danger from external enemies, and internal foes; your government is assailed upon every side, ‘for we have fallen in evil times, yea, in evil times have we fallen,’ this law is indeed beyond the strict letter of the Constitution, but it is for *your*, and *our* safety and advantage. As soon as the circumstances of the times alter, *you* shall again enjoy your rights and privileges, and *we* shall again resort unto the strict letter of the Constitution.”

Supposing all this to be true. Supposing also, that the members of government are patriots, unambitious, strictly virtuous and honest; still it is to be remembered, they are not immortal! Other Pharaohs may arise, who know not Joseph. They may, before the situation of the country is changed, be no more. Others may succeed less virtuous, and more ambitious than they. Finding themselves strongly fortified by penal codes, and Sedition laws, and vainly imagining that in proportion as they in-

crease their power, they will add to their happiness; they may look upon the violated and prostrate Constitution, as “ a dead letter that profiteth nothing,” and consign it to the shades of oblivion.

These are no vain suppositions. They are within the circle of *possibility* ; and whatever is so, may happen ; and ought, by every wise man, and free people to be strictly guarded against. If such should ever be the situation of these States,—if such should ever be the sentiments of their government,—if such should ever be the tame submission of their citizens,—Where would then be the advantages of their excellent Constitution?—where would then be their rights and liberties? They would then look back with regret at their supineness, and forward with horror at their situation !

The design of *written Constitutions* was to prescribe the duty of the Government, to ascertain what degree of power was delegated to it, and to declare what natural rights the people had given up, and what they had retained. They are certainly a great improvement in the science of government. It has indeed been maintained by a late political\* writer of the first eminence, that they are liable to serious objections, and that upon the ground of political justice they ought not to exist. It is not for me to enter the lists of controversy with so profound a reasoner ; neither in the present instance would it affect my argument, though the truth of what he endeavours to establish, were fully proven. While such an instrument *exists*, it is a compact of the most important kind, a bond of the most solemn obligation upon the Government. No excuses of times, or circumstances ought ever to be admitted

\* Godwin in his work entitled “ An Enquiry concerning political justice.”



of by the people. No virtuous and patriotic Government will ever attempt to offer them.

Even under the British Government, where no written instrument, of this kind ever existed ; but in which country the principles of liberty were for a long period better understood than in any other European country : even there, what is called the *Constitution*, has by all patriotic writers been viewed in the same light which I do *written Constitutions*. Dean Swift says upon this subject, after supposing that the plea of expedience and necessity would be urged by the Government : “ This is breaking into a Constitution to serve a *present expedient*, or supply a *present exigency* : The remedy of an *emperick*, to stifle the present pain, but with *certain prospect of sudden and terrible returns*.”

Upon this subject also, I shall here cite the opinion of a well known, and eminent writer in this country. It is so explicit, that the quotation needs no comment.

“ The members of the Legislature, *collectively and individually*, are under a constitutional obligation to observe the injunctions of a pre-existing law, and to give it effect. If they act otherwise, they infringe the Constitution, the theory of which, knows no such case, *no discretion* on their part. To resort to first principles for their justification in assuming such a discretion, is *to go out of the Constitution*, for an authority which they cannot find *in it* ; it is to usurp the original character of the people themselves, it is in principle to prostrate the Government.

“ The cases must be very extraordinary that can excuse so violent an assumption of discretion. They must be of a kind to authorize a revolution in Government ; for every resort to original prin-

ciples in derogation from the established Constitution, partakes of this character."\*

From what has been said in this chapter, the following deductions may be drawn.

While a people have prescribed to their Government, such certain and unequivocal rules for the conduct of the administration of their functions, as the people of the United States have done, they must surely be obligatory. The Government can have no more constitutional right to enact laws in contradiction to the express and positive letter of that Constitution, than the people to refuse obedience to constitutional laws. In the one case, it would be the *Government* violating that which they have solemnly sworn to observe; in the other, it would be the *People* refusing submission to the laws themselves had authorised, and to which they had sworn to give their support. Both would be vices of the worst kind, both would be productive of destruction to that social order, without which, society could not exist.

The Liberty of Speech and Press being of the first importance to mankind, ought to be guarded with the most jealous vigilance. No pretences or excuses ought to be adduced by the Government, nor admitted by the People. The same duty which oblige the people to yield a prompt and willing obedience to constitutional laws, direct them to oppose every one of an opposite kind.

It ought also to be observed, that as the *constitutionality* of the Sedition law, is like most other subjects, a matter of *opinion*; it ought to be examined and compared with the Constitution. If the public opinion can reconcile the one with the other, then all is well, if they conceive that neither

\* See Camillus on the British Treaty.

speech nor press is shackled by its operation, it is also well; but if they think the contrary is the case, then let them determine that it shall never exist again.

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## CHAP. V.

*Examination of the propositions continued.—Danger of PRECEDENT.—Exemplified in the British Government.—In the French.—Absurdity of political nick-names in free discussion.—If the Constitution be defective, let it be amended.*

**I**N the examination of the proposition we are now considering, the doctrine of *precedent* naturally presents itself to our view. A more dangerous principle never could be advanced, either by Governments or individuals. In private life, were it made the criterion of action, it would justify the most atrocious deeds, as however horrid or unjust, others might be adduced of equal turpitude. In Governments they are equally dangerous to the liberties of the people, as in private life they would be to the interests of morality. Most of the glaring encroachments of governments upon the rights and liberties of the governed, have originated from *precedent*. Some trifling circumstance occurs in itself of little, or no importance, but which is contrary in its nature to the prescribed rules of the Constitution. The people acquiesce in it, because they view it as insignificant. The ministerial politician however, views it in a different manner, and justly conceives it to be the foundation of other innovations, upon which he thinks may be reared

the structure of despotic power, while the *form* of the original Constitution will still remain.

To shew that this is really the case, let us resort for an elucidation of the subject to the British Government, and to that of France. There we will behold the danger of *precedent* pourtrayed in its true colours.

When the British had compelled the bigotted tyrant James the Second, to leave his country and throne, by the assistance of the Prince of Orange in 1688 : it was then supposed (and has been often since believed) that they acquired their liberty. However, this point may be disputed, certain it is that the prerogative of the king, and the privileges of the parliament were better defined than formerly. The *people* indeed, were left as they were, with the *very important* right of *petitioning*. "A right," (as has been observed by a late writer) "of which we might as well talk, as of the right of blowing one's nose." It was neither more nor less than the right of the most abject slaves, under the most despotic government; however, even *this*, the *people* are now by the British Government deprived of, because they are not allowed to *assemble*, except under such *restrictions*, as amounts to a total *prohibition*; and how is this? how does it arise? it has proceeded from *precedent*.

At the period of the revolution I have just now mentioned, *triennial parliaments* were established, and it was determined that the term of their existence should not be lengthened. It was an acknowledged principle in their *supposed* Constitution. It was also determined about, or at that time, that *place-men*, and *pensioners*, should not be allowed to sit in Parliament, and that for the very obvious reason, of preventing the king having an undue influence over the House of Commons. *The Liber-*

*ty of the Press* was also guarantee'd though under certain restrictions. The nature of the British Government is now entirely changed. *Triennial* parliaments, have given place to *Septennial* ones. Place-men and pensioners abound in the House of Commons; the Liberty of the Press can hardly be said to exist, and as before observed, the people are not allowed to assemble together, to discuss political subjects, or petition that parliament which *ought* to be their servants, which ought to be the organ of the public will.

The rebellion in Scotland, of 1715, afforded the Parliament, then sitting, a pretence for prolonging their existence for seven years, lest by a general election, a number of *Jacobites* should be returned.

Under the *pretence* of honouring those who had served their country in the army or navy, those holding offices of *trust* or *profit* under the king were admitted to sit in the House of Commons.

Under the *pretence* of curbing the *Licentiousness of the Press*, were laws enacted undermining its liberty. For, having once broken in upon those established rules called the Constitution, the first violation served as the precedent for all the rest.

As the subject of this work is particularly concerning the Liberty of the Press, I shall adduce some instances of a most glaring nature, all of which have recently taken place in that country and all of which were for publishing the *truth*: one prosecution served as *precedent* for another, in the same manner as in the acts of the Government which gave rise to them.

In 1790, the printer of a newspaper in Dublin, under the title of the *Phoenix*, was prosecuted by a reverend divine, for a *false, scandalous* and *seditious LIBEL*, published in his paper of 19th of May,

same year. This was said in the indictment to reflect injuriously upon the character and conduct of the prosecutor: it accused him of having associated with, and directed a tumultuous mob during the time of an election at Kilmainham, of having worn election ribbands in his hat and breast, and having uttered oaths and blasphemous expressions, unbecoming the character of a clergyman.

After counsel had been heard for the defendant, on account of several *interlineations* in the original copy of the indictment, *made after the attested copy was procured*, as well as to the admissability of the prosecutors on evidence, together with other objections against the legality of the proceedings, all of which were overruled by the court, the prosecutor himself was the only evidence examined. Upon his cross-examination this very prosecutor, admitted the TRUTH of the circumstances above stated.

The jury, after being a long time inclosed, returned a verdict, in the following words,—“ We find that the defendant is *printer and publisher*, not guilty of any libel.”

The judge refused to accept the verdict, and told them they must return a *general* one. Accordingly they were sent back to the jury-room, and locked up until nine o'clock next morning, when the court met, and then they returned a general verdict of—NOT GUILTY!

The judge was displeased, and held his hands while he thanked God it was not *his verdict*. One of the jury told his Lordship, “ that the indictment stated the libel to be *false*, but the prosecutor by his own evidence had admitted it to be *true*, and that in consistence with their oaths, they could not have found any other verdict.” The judge in reply to this, quoted the following opinion of Lord Mansfield, viz. “ The truth of a libel, is an ag-

gravation of its guilt," or, "that a libel, is the more a libel for being true;" the juror answered, "my Lord, *we* cannot hold that opinion."

The behaviour and sentiments of this judge, was founded upon many precedents, so common had they become about this time, under the British government, that they attracted the notice of one of the Scots judges, viz. Lord Grandenston. In a life and character of the celebrated George Buchanan, published by him is the following remark,

"Though he lived and died in the bosom of treason, rapine, and proscription; Buchanan would have seen, with surprise, our modern standard of morality. We call ourselves a FREE PEOPLE, and yet we have submitted to hear, from the chair of justice, *That TRUTH is a libel*, a doctrine which tears up the foundations of civil society, and compared to which transubstantiation, or even the divine right of tyrants, is a modest and respectable sophism. \* \* \* \* \*

"It is natural enough that a *Barrister* whose life has been employed in brawling, should in the end, distort his own mind out of all sense of *equity*, and when *he* mounts the saddle of authority, such decisions may sometimes be expected; but what shall we think of those *abandoned jurors*, who, sporting with the trust of their fellow-citizens, have crouched under this utmost insolence of judicial corruption."\*

The foregoing is not the empty declamation of a poor, discontented, and disappointed Jacobin. It is the opinion of one of the Senators of the Scots College of justice in Edinburgh. The remark is supported by strong and undeniable facts both in

\* See Lord Grandenston's Miscellanies, page 282, Printed for Robertson and Berry, Edinburgh 1792.

Britain and Ireland. A variety of instances have occurred in those countries within the last thirty or forty years, of people being punished for *speaking*, and *publishing* the *truth*. Hence it must follow, that if those are to be punished who speak or publish *truth*, than they who speak or publish *falsehood*, ought to be rewarded : but this *last*, is not established by *precedent*.

I shall here relate another case of a different kind in respect to the circumstances, but upon the same ground of *precedent*, namely, publishing the *truth*.

Sometime during the month of December 1792, or January 1793, three journeymen-printers, in a drunken frolic, went into Edinburgh Castle, and having called for liquor, drank some foolish and ridiculous toasts : amongst others it was said they had drank d—m—n to King George, and all crowned tyrants. Not satisfied with doing so themselves, they endeavoured to persuade some of the soldiers who were in the public room, to drink the same. The consequence of such imprudent conduct was what might have been expected in a garrison. They were committed prisoners to the main guard, and next day delivered up to the civil power. Shortly after; they were served with an indictment, charging them with being guilty of an attempt to seduce his majesty's military from their duty and allegiance. They were tried and found guilty, condemned to nine months imprisonment, and to find bail for their future good behaviour.

The editors of a newspaper then published, called the Edinburgh Gazetteer, reported the proceedings upon the above trial in their paper. In this report, they also gave the opinions delivered by the judges. The opinion of Lord Justice Clerk (the



supreme judge of the court of Justiciary) was; "*That to curse Almighty God was nothing, he was too far exalted above us, to take any notice of such foolishness; but to curse our gracious sovereign, was the height of impiety.*"\*

For the publication of the speech containing the foregoing curious sentiment, Captain William Johnston the proprietor, and George Drummond the Editor of the paper, were by a warrant of Lord Justice Clerk, brought to the bar of the court, and charged with publishing a "false, scandalous, and seditious libel upon that Majesty's High Court of Justiciary, tending to bring his High and Honourable Court into disrespect with the people." *Proof* was offered by the council for the defendants, that Lord Justice Clerk had said so, but the court refused its admission, upon the grounds that they were judges of their own privileges, and that it was a contempt of court. No other alternative was left to the accused, than that of submitting themselves to the *mercy* of the court. Accordingly, on Saturday the 23d of February 1793, they received the following sentence. Chaptain Johnston to pay a fine of one hundred pounds sterling, three months imprisonment, and find securities to keep the peace for three years, under the penalty of three hundred pounds: Mr. Drummond three months imprisonment, and to banish himself from the kingdom.

*All this was done without the intervention of a Jury.* However the matter might be twisted by a lawyer, the plain English of it is this; the *court* were the agrieved parties, and the *sole judges* in

\* I am obliged at this distance of time, to quote from memory, although I have in my possession a file of that paper, it is not a complete one, and I want in particular, the one which contains this trial. The accuracy of the sentiment, however, can be substantiated by numbers of people from Edinburgh, as well as other parts of Scotland.

their *own cause*. Now, they certainly knew whether the Lord Justice Clerk had, or had not spoken these words. If he did not, then the editor and printer, ought either to have apologised for their mistake, *or if wilfully misrepresented*, they deserved punishment. If they were not spoken, then the court had a fair opportunity of asserting their dignity, and of clearing the character of their presiding judge : if true, it was but justice they should have publicity, as the Lord Justice Clerk is a man remarkable for railing at the *Atheism* and *Infidelity* of the *French* ! With what propriety let the reader judge.

Having seen some of the effects of *precedent* under the British government, let us now turn our attention to France, even to republican and regenerated France ; we shall find that even *there*, violation of the constitution after violation has taken place, and the nefarious doctrine of *precedent* has shed its baleful influence.

It is true, I am not in possession of a sufficient number of facts, to be able to point out the origin of these violations of their Constitution, which served as a *precedent* for those which followed. Enough I however know, to point out their inconsistency with the Directorial Constitution. As for the Constitution of Dictator Buonaparte, it is out of the question ; a Constitution promulgated by the sound of martial music, and established at the points of three or four hundred thousand bayonets, is not of that kind which I am now investigating.

The Freedom of Speech, and Liberty of the Press, was guarantee'd to the people of France under their late Constitution. Short however was the period of the existance of this Liberty of the Press. It soon was no where to be found, unless in the Constitution itself. Newspapers, those ter-

rors to tyrants, soon experienced the vengeance of the Directory: In *this* respect they have been equally severe and unjustifiable as the old government of France, or the present government of Britain. The general charges exhibited against this species of publications have been, that they advocated the cause of *Royalty*. I rather believe however, that the real truth of the matter was, that they investigated the actions of the Directory with a greater degree of freedom, than they wished to submit unto, and a more minute scrutiny, than their actions would bear. But admitting, for the sake of argument, that they did advocate the cause of *royalty*, it would be no justifiable reason for interfering with them. If republicanism be decidedly preferable to monarchy, what can it have to fear, if administered with justice, and agreeably to the Constitution? If the people are republicans from a preference to this form of government, founded upon a conviction of its superior justice and advantages, what has republicanism in this case to fear, from the friends of monarchy? If on the contrary, their be evils in republicanism, they ought to be known; and the sooner they are known the better: But if royalty has the advantage over republicanism, then *that* ought also to be known. Let public opinion decide between the two opposite principles. If allowed the free and unconstrained exercise of this principle it will decide. In either case, if the government interfere, it is unjust, and the probability is, it will give an undue influence. If the people are *republicans* from choice, or royalists from the same, it is a most detestible species of tyranny to compel them to be in *appearance* what they are not in *sentiment*. It is encouraging both *national* and individual hypocrisy. Such conduct saps the foundations of morality, injures the interests of society, and holds up sincerity as the worst of

crimes. No character can be more base than the hypocrite, unless it be that Government which engenders it, by preventing the free and unconstrained operation of opinion. The real language of such governments, however they may disguise the matter, is this : " I will have recourse to the only means that are congenial to *guilt*, I will *compel you to be silent*,"\*

The violation of the Liberty of the Press, if it was nor the *first*, nevertheless served as a *precedent* for others. The banishment of a number of both the Councils, and even *two* of the Directory, by the remaining *three*, was a daring infringement upon the inviolability of the national representatives. No crimes were ever legally proved against them, because they were never brought to trial.

One *precedent* always brings on another. Accordingly the Directory not only rejected many of the newly elected representatives, but even prescribed those they should elect. This they justified upon the same pretended grounds as their former violations, viz. to check *royalism*, *terrorism*, and *anti-revolutionism*. They made use of those bugbear words to create alarm, and justify their conduct, in the same way as the British Government. Whoever dares in Britain to question the propriety of the ministerial proceedings, is immediately branded by way of reproach with being a *republican* and *leveller*. In France, such characters are called *royalists*, or *anti-revolutionists*. Even in *this country*, every one who for some years back have dissented in opinion from those administering the Government, have been railed at as *disorganizers*, *jacobins*, *anti-federalists* and *democrats*, as if there were any differ-

\* Godwin.

ence between the terms *democrat*,\* and *republican*; or, that all or any of the democratic party wished an annihilation of the Federal Government. While the opposite party are equally lavish in their terms of *Tory* and *Aristocrat*. With respect to this country, I shall beg leave to observe, that such a mode of argumentation may *irritate*, but never can *convince*. Whenever an individual substitutes instead of argument, names which he conceives to be terms of reproach; it is a fair and justifiable conclusion, that such conduct betrays the weakness of their judgment, if not of the cause they wish to support. But to return to the subject.

Sufficient instances have been adduced to shew the impropriety of a people acquiescing in any violation of their Constitution, from the dangerous nature of *precedent*. We also see by all and every one of the preceding instances, that every violation was intended to suppress the free exercise, or expression of the public will. The prosecutions founded upon those in Britain, and the prohibitions in France, were meant to destroy the Liberty of the Press. In both, they were contrary to the rules of the Constitution, or that which is so called.

Perhaps it may be argued, that in the progress of the administration of a Government, many unforeseen circumstances may occur, which being either unprovided for by the Constitution, or perhaps of a

\* In proof of this, see the following extracts from Dr. Samuel Johnson's Dictionary, 8vo. edition.

DEMOCRACY. One of the three forms of government; that in which the sovereign power is lodged in the body of the people.

DEMOCRATICAL. (From democracy,) pertaining to a popular government, popular.

REPUBLICAN. (From republic,) placing the government in the people.

REPUBLICAN. One who thinks a commonwealth without monarchy the best government.

nature that requires a direct violation of that instrument; otherwise, the happiness and security of the people must suffer: therefore, a government so situated, may, with justice, act contrary to the Constitution. Admitting all this to be true, what does it amount to? That the Constitution is defective, and therefore requires amendment. For *this*, the Constitution of the United States has prescribed a particular and specified mode. Therefore, as the people cannot enact laws, except through the medium of their Representatives; so neither can the government alter that Constitution which the people have prescribed as a rule of action to those administering that government. It was observed by Lord Treasurer Burleigh, “That *England* never could be *ruined* but by a *Parliament*.” The same thing cannot be said of the United States. They cannot be *ruined* by a *Congress*, so long as their Constitution is preserved inviolate, and so long as the alterations which time and circumstances may shew to be necessary, are made in a Constitutional manner. No other kind of innovation ought ever to be allowed; for if ever it is done, in that case the power delegated would be absurd, and a pretended right exercised, which the government never received.

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## CHAP. VI.

*Examination continued.—Justice equally binding upon Nations as upon individuals.—Whether what is morally wrong can ever be politically right examined.—Trial of Warren Hastings.—Slavery and the Slave Trade.—Established Religions.*

**L**ET us now examine the third proposition: viz. *Either the administrators of government are bound*

*by the rules of eternal justice, in their public, as well as private capacities, or they are not.*

As the administrators of a government, are only a number of individuals appointed for the particular purpose of managing the public concerns of a community; so it follows of course, that the same moral obligations so far from being relaxed, really become stronger than before; and, that for this reason. It is not only necessary that they conduct the affairs of government according to justice; but they ought also by their conduct in private life, to set an example of morality to the people. As every man on earth, is, or ought to be, bound by that noblest of all precepts,—“To do unto others, whatsoever they would wish others should do unto them;” so this precept is of equal obligation in a *national*, as in an *individual* sense.

It is indeed astonishing that ever this principle should have been disputed, but it is nevertheless true, that such has been the fact. A doctrine in direct opposition to it, has been frequently held by governments. A maxim has been by them promulgated, “*That what is MORALLY wrong, may often be POLITICALLY right.*” On the great question concerning the abolition of the Slave trade, in the British Parliament, this principle was insisted upon, and defended, in the most unlimited sense. In a history of the trial of Warren Hastings, published in London, in 1796; and, where the author in a preface to the work, calls the late Governor General of Bengal, “A good man struggling with adversity;” the above maxim is avowed, and defended in these words:—“It has been justly observed, on the subject of legislation, that what is *metaphysically true*, may be in that very proportion, *politically false*.” What this author means by *metaphysical truth*, is *abstract truth*. Now nothing can be abstractedly

true; unless it will also be so through all its grades and ramifications. If it will not bear this trial, then it cannot be a *truth*. Consequently, as there can be but one kind of truth, therefore this author could mean nothing else than simple truth, and to say that a thing is true in one instance, and false in another, may be very good *sophistry*, but it is certainly very bad *logic*.

The same author afterwards says, "He (Warren Hastings) maintained the British Dominions in India, by means *exactly of the same kind with those that acquired them, by which alone it was possible to maintain them.*"

It may be proper to observe, that it was by *superior force, murder, robbery, and plunder*, that the British Dominions in Asia were acquired; therefore, according to this author, they certainly could not be maintained by any other means than *superior force, murder, robbery, and plunder*: Yet this man, because he has undergone a trial for these three last mentioned crimes, is styled "*A good man struggling with adversity.*" To be sure, if what is morally wrong, be politically right; and if he committed these actions, he was what the historian of the trial calls him.

While I am writing this article, a news-paper lays before me, containing a speech of Mr. Sherridan, delivered in the House of Commons, on the 1st Dec. 1800; where the principle now under consideration, is unequivocally contended for.

Speaking of the dispute with Denmark, and alluding to the probability of a northern coalition in defence of the rights of neutrals, he says:

"Without giving any opinion upon that dispute, without saying whether any guarantee could be given with respect to ships under convoy of neutral powers, I have no hesitation in stating, that if the



privilege we contend for, be that under which our naval greatness has grown, which is at once the boast, the glory, and the security of England; which has been recognized in all treaties, which is part of the maritime law of Europe: if I repeat, it be that privilege, I have no hesitation in saying, that it is the charter of our existence, the banner under which we should rally, it is the flag which imitating the example of our gallant seamen, we should nail to the mast of the nation, and go down with the vessel rather than strike it."

All this is very fine to be sure, excellent declamation; but what is the argument contained in it? it is this nefarious principle now under examination, a public avowal of the maxim, "that what is *morally wrong*, may be *politically right*." It is saying, "I care not about the justice or injustice of our ships of war stopping, searching, or seizing neutrals, it has been to our advantage, and sooner than give it up, we will sacrifice the last man in the nation." It is the same argument that a high way robber would make use of, for continuing his depredations. But, as Bishop Taylor says; "in this world men thrive by villainy, and lying and deceiving is accounted just, and to be *rich* is to be *wise*, and *tyranny* is *honourable*. And though *little thefts*, and petty mischiefs are interrupted by the laws, yet if a *mischief* become *public* and *great*, acted by *Princes*, and effected by *armies* and *robberies* be done by *whole fleets*, it is *virtue*, and it is *glory*!"

It is not however in the island of Britain that this maxim of *moral evil* being *political virtue* has been acted upon and avowed. The negro slavery of the United States is defended upon the same grounds. It is for those who bawl about liberty and equality at a democratic meeting, and then go

home and flog their slaves, to reconcile the one with the other. Justice knows no distinction of colour, knows of no description of men who ought to be deprived of their natural rights. *Law* and *custom*, never can sanction injustice; on the contrary it makes the evil more pernicious. "Of all injustice, that is the greater which goes under the name of *law*".\* Slavery is not only unjustifiable both in a national and individual point of view, but like every other violation is injurious to the community where it exists. To prove this would be no difficult task; but it is not necessary here to insist upon it. All the design of noticing it here, is to shew, that both the government and individuals of a nation are bound by the rules of justice, and that if any principle or practice is sanctioned by them, contrary to this, it injures the first interest of society.

That what is morally wrong may be politically right, is so very absurd to an ingenuous mind, that such must behold it with astonishment and indignation. It has nevertheless been so often adduced by governments as a defence for the most unjustifiable acts of power, that it cannot be too much reprobated. Of this kind are all laws tending to direct public opinion, whether in politics or religion. All established religions fenced round with penal laws, are most notoriously unjust. How is it possible for every individual in a nation, to be of one particular set of religious opinions? no man can believe any opinion, or system of opinions, except according to the force with which the evidence operates upon his mind. The believers in every religion upon the face of the earth, assert *their's* to be the only true one. How then dare governments establish any

\* L'Esfrange.

one in particular? wherever established religions exist, those who *are* not, or do not *pretend* to be of the national faith, are deprived of some of their political rights, as if difference in opinion were a crime. Is this acting according to the rules of justice? certainly not.

The French government when they interfered in religious opinions by abolishing the observation of Sunday, were equally wrong, with those who enforce its observance. If I observe Sunday, I ought to observe it from a motive of religious obligation and propriety, not because the laws of man have prescribed it. If I am convinced that it is my duty, a duty which I owe to God, to observe that day; no government can have a right to prohibit me from doing so. As I can have no right to interfere with my neighbours opinions in any other way than by argument and persuasion, so neither can government in justice do so with the people. The governors, and the governed are equally bound by the rules of eternal justice; both are equally guilty if they violate them. If there is to be one standard of morality for the government, and another for the people, then all distinction between virtue and vice is at an end. Whatever in this case was a vice in an individual, might, by a little government logic, be proved to be a virtue. Miserable must be the people who acquiesce in this destruction of moral principle; but more miserable still, those who admire it. The same thing may be said of such, as Lord Shaftsbury said of those who believed in divine right. "They who live under a tyranny, and have learned to admire its power, are as much debauched in their *religion*, as in their *morals*."

## CHAP. VII.

*Last proposition examined.—Venice and Holland, their governments originally Democratic.—Deductions from the foregoing reasonings.*

**L**ET us now examine the fourth and last proposition. *Governments are either the SERVANTS of the PEOPLE, or they are their MASTERS.*

The deductions and reasoning from this, comes so nearly to those drawn from the first proposition, that it might be deemed superfluous to have stated it, were it not fashionable among certain politicians, to deny the *first* part of it, and to treat it with ridicule. The truth however, is, there is no medium between the two opposite extremes. There is no intermediate title by which the administrators of a government can be distinguished. For, as government can originate but in two ways, either by *usurpation* or *delegation*, so of course, the members thereof must be *masters* of the people's liberties, or *servants* of the people's will. In the United States the last is most certainly the case. Here the officers of government are elected either mediately or immediately by the people, from the President even to the Constable. They hold their offices for specified times, and receive stated salaries in compensation for their services. Certain rules are prescribed to them for their direction, which rules, if violated, have prescribed a mode of punishment, and thereby have unequivocally fixed the stamp of *servant* upon them. Can any man of common sense, then pretend to say, that the government is not the creature of the *people's will*; that the administrators of it are not the people's servants? Whenever they cease to be so, they become masters and tyrants, and the

rights and liberties of the people cease to exist. It is therefore the duty of the people of these states, as well as their interest, to watch with the most vigilant care, the actions of their public servants. Jealousy is the soul of republicanism. Implicit confidence is the parent of tyranny. Though it has often been asserted, that *ingratitude* is the crime of republics; yet its opposite, *gratitude*, joined with confidence, has been the most destructive to their interests. Some particular individual of eminent talents, from a combination of fortuitous circumstances, had it in his power to render essential service to his country. His countrymen think they cannot be over grateful; they confer power upon him, and they place implicit confidence in his talents and administration. Power has an inevitable tendency to corrupt the heart, or at least to blind the understanding of the generality of men. He that was before, a hero and a patriot, becomes a tyrant over those he had formerly benefited. Vigilance then becomes the first duty of every republican. Almost numberless are the instances that could be adduced to shew the propriety of this maxim; I shall only adduce two: that of Venice, and Holland. There we shall behold the *servants* of the people become their *masters*, by the means of *confidence* and *gratitude*.

The Venetians first adopted a pure democracy. They chose from the body of the people, a tribune for each island; and this election took place annually. These tribunes regulated the private concerns of the people; while the public business was transacted by a general assembly. This government existed for upwards of two hundred years. At length the tribunes endeavoured to exercise despotic power, each in his own island. Instead of changing the men as they ought to have done, they changed the form and

nature of the Government. At the instigation of the Patriarch of Grado, they elected a man universally beloved, to be Duke of Venice ; and to this office they attached an almost unlimited power.

Thus fell the democracy of Venice. " A plan, says M. De La Croix, which may rank in point of wisdom with the most perfect which we find in antiquity ; and while the islanders had the good sense to adhere to it they were happy and peaceable." They did not remain so long, under the ducal Government. Paul Luke Anafeste, the first Duke, approved himself worthy of their choice. Extensive power is dangerous to be entrusted in a single individual. This was verified in Urso their third Duke, or *Doge*. After having been triumphant over the Lombards, he became proud of his success ; ruled with severity and injustice ; and at last fell a sacrifice to the vengeance of an injured people. In other words, he forgot he was a *servant*, and in attempting to become a *master*, he was put to death in his palace.

An annually elected chief, under the title of "*Master of the military forces*" next was agreed upon ; but John Fabricatio, the fifth who held that office, had his eyes put out for his atrocious conduct.

Again the Venetians resorted to a perpetual chief, and again they were deceived. Theodat, this fourth *Doge* had his eyes put out, at the instigation of a demagogue named Galla. Brondelo who succeeded him, underwent the same barbarous treatment, one year after, and was besides sent into exile.

At length two tribunes were associated with the *Doge*, without whose concurrence he was to do nothing. To this wholesome restraint Mongario, the sixteenth *Doge* would not submit ; and he also,

who wanted to be *master alone*, was involved in perpetual darkness.

The same form of Government still continued; and the Doge was still elected for life. Doge Maurice after he had governed with propriety for upwards of twenty years, proposed to have his son John associated with him in the Government. *Gratitude* induced the Venetians to comply, and a dangerous *precedent* was thus introduced. John claimed the same privilege for *his* son; and at last for their crimes they were both expelled from their power and their country.

The limits of this publication will not permit me to give even an abridged detail of all the various revolutions in the Venetian state. Let us therefore come to that period of their history, when they were conquered by the French republic. By contrasting the nature of their then Government, with what it was in the origin of the republic, an awful, but convincing lesson will be presented to our view.

I shall just premise, that for a very long period after the institution of the office of Doge, the *people* still retained their republican character, and were acknowledged the source of sovereignty. Every alteration of the form, and every revolution in the Government served only to curtail the rights of the people; until at last an hereditary body of nobility arose, who, having been originally *servants* of the people, deprived that people of every vestige of liberty. Thirteen hundred nobles retained the whole power of the people. From among those, were elected by themselves, the Senate, the College (or Supreme Council of State) the Procurators of St. Mark, the Council of ten, and the Inquisitors of State.

Thus were the people governed by a multitude of tyrants. "Under *one* despot," says Voltaire, "I

need only stand up against a wall when I see him coming by, or prostrate myself, or knock my forehead against the ground, according to the custom of the country; but under a body of perhaps a hundred despots, I may be obliged to repeat this ceremony a hundred times a day, which is not a little troublesome to those who are not very nimble."

The people under this perfection of aristocracy were absolute slaves. The Freedom of Speech was unknown; as for the Press, that was totally prohibited. The Government was a complicated heap of absurdities and oppression; but, of all the engines of oppression, that of the inquisitors of state was the most detestable. "The authority of those inquisitors is so much the more redoubtable, as the executions which follow their sentences are always performed in prison. Sometimes the criminal is interred there, and sometimes the body is exposed between the columns of Saint Mark, with a written lable, containing but very vague words, such as, *for a serious crime against the state.*"\*

The same author observes concerning this tremendous engine of cruelty;—"These inquisitors have the key of the hollow trunks of the palace of the Doge, into which can be thrown, through the mouths of the lions, which serve as openings, billets to reveal secrets interesting to the republic.

"Who can consider, without trembling, a recital of such secret vengeance, of such mysterious acts of cruelty? Wherefore do they form the basis of its Government? It is because that Government is itself founded on injustice! It has been established as I have shewn, without the consent of the people; and the authority now enjoyed by the nobles, exclu-

\* M. De La Croix's Review of Constitutions.



sively, is an usurpation on the multitude, and on the chief of the republic."

Contrast this with the quotation at the beginning of this article, from the same author. Contemplate what must have been the situation of the Venetians for the first two hundred years of their existence, under their simple democracy, with that under the aristocracy. Survey the various revolutions and changes which their Government underwent before their *public servants* became their *haughty masters*; their despotic lords. A Government where the people were of no more account, in a political view, than "the dust of the balance," or "the chaff before the wind." Examine the latent causes of so melancholy a change. Carelessness, ignorance, and worse than all; *unlimited confidence*.

If these things are attended to, we can hardly suppose, that the people have made a change for the worse. Let the Austrian Government rule as they please, it is utterly impossible that the *people* can be more wretched, or enjoy less liberty than under their own aristocracy. This however is not meant as any justification of the French Government, for delivering them up to the power of the German Emperor. That is assuredly a detestable policy, which can, on any pretence whatever, make a transfer of a whole people, as if they were so many oxen or hogs. It was the business, nay the duty of the French, either to leave them the sole choice of a new form of Government, or let them alone. The very utmost they had any right to do, even as conquerors, was to take such precautionary measures, as to prevent them renewing hostilities.

Much has been said, by a certain party in this country about the fate of Venice. Often have the people been called upon to avoid, and to

look with horror on the degraded fate of that mis-named *republic*. The mode of conduct is in their own power. Let them remember, that they are the *sovereign*; that their magistrates and legislators are their *servants*; that if those individuals act wrong, to change the *men*, but not the *constitution*. Let them also be virtuous, and remember that arguments founded upon justice and truth, are the surest and best weapons which can be wielded against encroachments upon their liberties. Let the Press be Free, and the citizens of these states need not fear the despotism of aristocracy, nor the degraded fate of Venice.

Let us now turn our attention to Holland; for that too had has its lamentations poured forth, for the overthrow of its late Government.

The revolt of the Hollanders from the Spanish Government, about the middle of the sixteenth century, is sufficiently known. The gratitude to the house of Orange, for the essential services rendered to the republic, during its revolutionary war is also known. This very republican gratitude, added to the ambition of the succeeding princes of that family, annihilated every thing of freedom but the name. The encroachments of sovereign authority, and of aristocratic power, were long exerted before they attained their ends. Ultimately, however, they proved successful over democracy; and a *hereditary chief magistrate* was at length seated on the Stadtholderen throne. He who was originally the first *servant* of the people, became the king and the tyrant of the country. Various efforts were made to overthrow this ill timed concession; but foreign troops, and foreign generals, always in the pay of the Stadtholder prevented it. When in the year 1785, they had nearly accomplished their liberty; the country was over-run by a foreign force, under the

bravado Duke of Brunswick, of proclamation memory. Then the chains were re-rivited; and it was not until the campaign of 1795-6, that the Hollanders regained their freedom.

Whether they are *now* better, or worse, is not for me to say; nor will it in either case affect my argument. The Government was originally democratic, and the officers of the Government were the *servants* of the people. This Government became aristocratic, and its officers became the *masters* of that *people*.

From what has been said upon the propositions stated in chapter 4th, it appears, 1st. That the government of the United States being a delegation from the people; no power over the operations of the mind, or controul of public opinion could be delegated to them. Were such a thing possible, it would be a ridiculous absurdity. As well might I say unto my neighbour, "I will confer Almighty power upon you; you shall guide and direct all the operations of my mind, and every thought shall be regulated as you please."

2d. We have seen that governments are bound, or at least pretend to be regulated by *Constitutions*; and that the United States have a legitimate and authentic instrument which bears that name. The dangerous nature of precedent has been pointed out, and the encroachments upon natural rights under the British government have been traced to this source. Its violation of moral principle, has also been noticed, particularly in the British doctrine of libel; where *truth* is not only punished as a *crime*, but it is even daringly asserted that the libel is aggravated by being *true*. The violation of the Directorial Constitution of France has been exposed. It has been shewn, that these oppressions also, went upon the principle of government having a right to direct the

public opinion ; the absurdity and injustice of which, I hope is also evident.

3d. We have also found, that justice being universal, and immutable, must be of equal obligation upon the governors, as upon the governed. Consequently, moral evil, never can be political good.

4th. It has been shewn, that the legal governors or magistrates of a country, are the people's *servants*, and that it is only by *usurpation* they can ever become *masters*. The governments of Venice and Holland, have been cited as warning examples to the citizens of the United States, to guard with unceasing vigilance the actions of their public servants ; lest as in those countries, the servants should become masters.

The first deduction which offers itself from those reasonings is, that in no case whatever, can government have a right to interfere in the direction of public opinion. The next deduction is, that if government does interfere, it saps the foundations of morality. And lastly, that it is the interest, as well as duty of the people to prevent, or check such attempts in the government ; otherwise their liberty, their happiness ; nay, all that they hold dear to them as rational beings, is in danger of being wrested from them.

## CHAP. VIII.

*Violent revolutions to be dreaded.—Free discussion favorable to virtue, and the only real preservative against them.—Fictitious Signatures pernicious.—Spies and informers.—Multiplication of oaths dangerous to morality.—Example in illustration.*

**T**HE enormities committed during the revolutionary fervour of the French, have been loudly reprobated, by the enemies of all reformation ; and they have even been deplored by the friends to the liberties of mankind. Actions have certainly taken place, which cannot upon any principle of justice be defended. No doubt also, but many of those occurrences have been exaggerated. It is not a little remarkable, that all who have written concerning the massacres and executions of that nation, seem to have forgotten the cause from which they originated ; or, if they did not, they have used every artifice to conceal it.

Far be it from me to take the opposite extreme ; and to attempt a defence of that which is indefensible. It ought however to be remembered ; that "*oppression makes a wise man mad.*" If it sometimes has this effect upon an individual, it may also operate upon any given number of the human species.

At all events, violent revolutions are to be dreaded. When once the usual bonds of human society are broken, bad men are always in readiness to exercise their pernicious talents. It is true, that anarchy cannot long subsist, as it carries the seeds of its immediate destruction along with it ; but the effects may long be felt, after the cause has ceased to exist. Violent revolutions are "like the destructive tornado,

which alike overturns the cottage and the palace; which overwhelms all within its vortex in indiscriminate dismay and destruction. If such be their nature and tendency; how ought they to be guarded against?

One of the most prominent forerunners of violent revolution, is a total suppression of the Liberty of Speech and Press; the Government usurping the sole direction of public opinion. This is dangerous in every kind of Government; but more preposterous, as well as more dangerous in a republican country, than in any other. If in a democratic republic, the people are prevented from a free investigation of the actions of their public servants, it will inevitably be productive of the following effects.

Either it will drive the people into immediate acts of violence against the Government; or, if they silently submit, it will ultimately deprive the people of that free energy of thought, word, and action, which the consciousness of liberty and independence never fail to inspire. The Government will then cease to direct the public concerns of free men; and they will rule over a nation of degraded slaves. Both of these events ought to be equally dreaded by the good politician; because both, in the end, must terminate in violent and tumultuous revolution.

Though it be true, as has been observed by Lock, that—"There remains still inherent in the people, a supreme power to remove or alter the legislature, when they find the legislative act contrary to the trust reposed in them; for, when such trust is abused, it is thereby forfeited, and devolves to those who give it." I say, though this be true, the principle is always to be applied with caution. If this advice is due to the people; another piece of advice is also due to the Government; that is, *to avoid every thing which may occasion the necessity of its*

*being resorted to.* The Freedom of Speech and Press ought in particular to remain inviolate and sacred. The language of Government should be, "Observe my conduct; you do well. Report it as widely as possible, provided you report it fairly; you are entitled to commendation. But the heart of man unavoidably revolts against the attempt to correct my error by the infliction of violence."\*

Here however I shall beg leave to differ in one point from this respectable author. He says, "Report it as widely as possible, provided *you report it fairly.*" Now a thing may be reported which is not really *true*, and yet it may be *fairly reported*, from the information the person has received; therefore report it as you believe it to be. No one can have a *right* to report a *falsehood*, but he may be himself deceived, by believing his information to be true. If he never reports this, he continues in error; but by giving it publicity, he stands the chance of being undeceived.

A free promulgation of facts and opinions, would soon be perceived to be the strongest preservative against violent revolutions. It would be doubly advantageous to the interests of a Republican Government. That Government which the people have chosen, may fairly be supposed the constant object of their solicitude and care. It can hardly be imagined, that the people will fail in a due respect for the administrators of their own Government, so long as they act with propriety, justice, and according to the Constitution. The members of such a Government are only elected for a particular period. They should then avoid all measures of a selfish or temporizing nature. If such laws be made to shield themselves from animadversion, they

ought to recollect, that parties and power may change hands. In this case, they might repent the having sanctioned laws restricting the Freedom of Speech and Press. Again, do the members of a Republican Government wish to have the spontaneous approbation of their fellow citizens, or do they wish to hear the sycophantic adulation of slaves? If the *first* be their wish, they will not restrict the free expression of the public sentiment. If the *last* be what they are desirous of; it may indeed flatter the vanity of ignorant tyrants; but it ought to be remembered—that they preclude themselves from knowing their friends from their enemies. I certainly should not have told Dionysius the tyrant, that I thought him a detestable monster, because it is probable I should have lost my life. My opinion however must have been unchanged.

The disinterested legislator will always be friendly to the cause of virtue. He will know, that virtue and republicanism must rise or fall together. No people ever were ripe for despotism, until they were completely corrupted. It was the case with Greece, when the Romans overpowered it. It was the case with the Romans, when Cæsar became their master. The real friends of the Government of the United States, will then do every thing in their power to promote and encourage virtue among the people. This, and this alone, will give the Government stability; and prevent the dread, or necessity of violent revolution; that is, if the Government are also virtuous.

If this principle be acknowledged, how cautious ought Governments to be in enacting laws which may in their operation tend to destroy virtue among the people? Whatever in the smallest degree, tends to the injury of morality, should both by individuals and Governments be avoided. Hence any thing



which may occasion the multiplication of *fictitious signatures, oaths or tests, spies or informers*, ought to be guarded against with the most studious care.

*Fictitious signatures* are of no importance when attached to any other kind of publications, than those where public or private individuals are charged with improprieties. They are however totally owing to the checks which have been from time to time imposed upon the free expression of public opinion. Consequently they engender pusillanimity, in sincerity and anonymous assassination of character. Sedition laws will always increase this evil. Teach men the necessity of only speaking truth. Shew them that they may do it without fear, and this evil so frequently, and sometimes justly complained of, will cease to exist. If the malicious slanderer still retreat behind this mysterious veil, let his publications be treated with that contempt they so justly deserve. Contemptuous silence will soon impress him sufficiently with an idea of his own littleness. On the contrary, the man who has nothing to relate but what he believes to be truth; why should he conceal his name? He may be mistaken, he may be misinformed, he may have drawn erroneous conclusions; if he has, he may be set right; and like an honest man, let him acknowledge his error.

In order to carry sedition laws fully into effect, *spies* and *informer*s must be made use of; nay, they must be encouraged. Wherever such wretches exist, and where they are employed by the hopes of pecuniary reward, liberty cannot live. The confidence of friendship, the inviolability of domestic conversation, and the unguarded effusions of the moments of hilarity; all become so many snares for the honest and unsuspecting citizen. As for the cautious villain, he is on his guard, and will always be certain to escape. That such wretches are to be

found in all countries, is not more disgraceful to human nature, than it is true. The Governments who are so degraded as to employ people of this description, are sunk low indeed. They become dishonoured by a certain degree of intimacy and familiarity, with which they are obliged to treat them. Such Governments as have so far forgot their dignity as to employ spies, have always found themselves in this degraded situation; and as soon as possible have shaken them off. Instances are even upon record, where the informer and spy has paid the forfeit of his crimes, at the expence of his life; and that even by the sentence of that Government he had served. Watt, who was hanged and beheaded at Edinburgh for high treason, on the 15th October 1794, is an instance of this kind. He had been employed as a political spy, by the Lord Advocate of Scotland, at the desire of Henry Dundass secretary of state. Upon his trial, he subpoenaed the Lord Advocate as an exculpatory evidence. It then appeared upon his examination, that he had been in the habit of receiving intelligence from Watt; and that at one time he had paid him *thirty pounds sterling* for a piece of information. It also further appeared, that it was about the *price*, that they finally differed. Watt demanded a *thousand pounds sterling* for discovering that plot, of which he himself was the chief promoter. The sum was refused, his house was searched, the pretended plot was discovered, and he fell under the vengeance of Government, unpitied by all parties. May this forever be a warning to such characters, and teach them the necessity of honesty!

Such being the case, it must be evident, that laws which require such means to carry them into effect, must be extremely uncertain in their operations, as well as the punishments frequently unjust. He who

can descend so low, will hardly boggle at a false oath. Few will be ambitious of such an employment, excepting such as are of the most abandoned characters; lost to every sense of honesty and honour. Perhaps a few individuals might be found in any country, who might undertake such an employment, from mistaken notions of patriotism. If such are to be found, they that moment cease to be *patriots*, and become *spies*. Wherever they are known, their company and conversation will be avoided, and they will be despised and detested. Even in *war*, where *spies* are so frequently made use of, and where the office is thought the most excusable; even there they are but *half trusted* by their employers. As for *traitors* to the cause they have espoused; the fate of an Arnold and a Dumourier are sufficient examples of the light in which such characters are beheld—of the way in which they may expect to be treated, even by those they have served. The *one* never respected, nor entrusted with any *important* command; the *other* despised and detested—driven from country to country, a wandering vagabond; refused permission to reside in the territories of those very princes whose cause he had served.

In most cases the same fate will almost inevitably follow *spies* and *informers*, when the ends for which they were employed are attained. He who to serve me, has deceived another, how am I sure but he may deceive me? If such is the fate of those characters from their employers, how must they be despised and detested by their fellow-citizens? "We disapprove of the superior, however well informed he may be, who undertakes by chastisement to induce me to alter my opinion or vary in my choice; but we disapprove still more, *and we do well*, of the man who officiates as the ARGUS of my tyrant, who reports my conduct, not for the purpose

of encreasing my wisdom and prudence, not for the purpose of instructing others, but that he may bring down upon me the brute, the slavish and exasperating arm of power.”\*

*Oaths and tests* are another inevitable consequence of Sedition laws. They are in all cases whatever, of the utmost injury to truth, the only foundation of all morality. To this source may be justly attributed, the prevalence of falsehood and insincerity amongst every class of society. Among the less informed part of mankind, it is most notoriously so. How often do we hear from such, when charged with having related a falsehood,—“Why sure you know I was not upon oath:” or, “I did not *swear* it was true.” What sort of morality is this? How contrary to the spirit of the gospel, and the strict and positive command of Jesus Christ? “I say unto you, *swear not at all*, but let your yea be yea, and your nay, nay.” He knew the pernicious tendency of oaths, and therefore prohibited his followers from making use of them. I know the generality of christians say, that this injunction is only against profane swearing in common discourse. But it ought to be recollected, that this vice was already prohibited under the law: “Thou shalt not take the name of the Lord thy God in vain.” *This* prohibited vain swearing in common conversation, and one of the most respectable and virtuous denominations of christians in this country are of this opinion, viz. the Friends.

The pernicious tendency of oaths, is seen and felt in a variety of instances in private life, and these occur almost every day. The tongue of slander, the impositions of trade and traffic, are all to be attributed to this tremendous evil. Even servants

\* Godwin.

are taught to deny their masters and mistresses though they are at home. Can such expect their servants will always speak the truth to themselves; from such an example taught them by those who ought to know better? It is not my business at present to enquire, whether this conduct can at any time, or under any circumstances be proper, it is sufficient to shew that it is injurious to morality. After all the sneers and satires of Dean Swift against this class of the community; the most pernicious and prominent of their vices, are to be justly attributed to the example of their masters. With regard to *slaves*, this is peculiarly the case.

It may be asked, "how are you to obtain the truth in cases of importance, if oaths are abolished?" In the same way as it is attained from the Quakers. One of this society is hardly ever known to deceive a court or jury. If they did, their character would be lost amongst their own society; and the law would punish them for perjury, in the same way as it does those who *swear by book or hand*.

This however, I shall omit investigating any farther. If it is only acknowledged, that oaths ought not to be frequently administered; the principle for which I contend may be readily admitted. In Great-Britain the evil tendency of the multiplication of oaths has been frequently, and justly complained of, even by those who esteem them sometimes necessary. The various classes of manufacturers who are under the demon fangs of the *Excise*; are particularly exposed to temptations of *fraud upon oath*, and even to the swearing of *false* ones. One instance of this kind I shall adduce; not because it is a *solitary* one; but from its singularity. It will tend to shew, better than a folio volume upon the subject, how much a mans morals must have been injured, before he could have fallen upon so dangerous and

immoral a scheme. I shall just beg to premise—that in Great Britain every retailer of foreign spirits, wines, teas and coffee, are obliged to make oath from time to time, that he has not sold more than the quantity of goods, specified by him in a certain book: that is, he must *swear that he is an honest man!*

“I recollect of hearing an anecdote of a dealer in tea, who was one of those apparently austere religious people, to be met with in every place: When the invention of shopkeepers swearing to the excise officers of the fairness of their trade, was first put in practice, this man, who had always been in the practice of smuggling a little, and was now very unwilling to forego the advantages thereof on account of an oath, set his invention to work in contriving a method of smuggling, swearing, and having a sound conscience:—the result of mature deliberation was, that on a Sacrament Sunday, he shut himself up in his room, and after a long prayer, made a solemn oath that he should never in his life speak a true sentence to a *gauger* (excise officer.) He ever afterwards considered this oath of greater weight than the other; and his conscience as very free from stain, although he perjured himself once every three months.”\*

To this anecdote it may be perhaps, objected, that admitting this, it was an affair wherein his pecuniary interest was alone concerned; and does by no means apply to politics. This however, is a subject where party prejudice is as strong in its operations, as where self interest is concerned. It is only a few years ago, that a clergyman of the established church in Scotland; was tried for, and con-

\* See the Bee, published by Dr. Anderson of Edinburgh, Vol. I. No. VII.—Pages, 251 and 252.

victed of perjury, and stood in the pillory for the same: And this was for swearing he was qualified to give his vote for a member of Parliament, when he was not. Such are some of the consequences of the multiplication of oaths.

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## CHAP. IX.

*Danger of Government interfering in the direction of public opinion.—Its incapability of doing so, deduced from examples drawn from the History of several proscribed opinions.—Persecution of the Protestants.—Of the Presbyterians.—Old French Government, their Jealousy.—Attempts of the British Government in America.—Trial of John Peter Zenger.—In Britain, Wilks, Junius, &c.*

EVERY Government however constituted, or whatever be its form, is always possessed of an extensive influence among the people. Although it be true, that Government depends for its chief, if not its only support, upon public opinion; yet it will always have a very considerable share in the formation, and direction thereof. This arises from the unavoidable patronage which it seems necessary to confer upon it; or at least, which seems pretty generally thought so to be. It may thence be obvious, that throwing any additional weight into this already preponderating scale, must be extremely improper, and highly dangerous. To guard the Government by Sedition laws, is giving to it the power of at least attempting to direct the opinions of the people. It gives to it the authority of determining what the people shall say concerning them. It is not *falsehood* that it will guard against; other-

wise *flattery* would be equally punishable; equally a libel. The flattering sycophant will always escape the censure of Government; while the honest man who boldly speaks disagreeable truths, will fall a victim to his sincerity, and patriotism. Not unfrequently, the flatterer will be rewarded for his falsehood. Like honest Mordecai, those who refuse to bow down to proud Haman, are always sure to give offence to the Satellites of power; and it is but seldom that an Ahasuerus is to be found to punish the haughty minister. The injury to the interests of morality are incalculable; because its great and only foundation, truth, is thus sapped; nay, it is overthrown. In trials for Sedition, unbiassed decisions may be given; but they are hardly to be expected. The Judges who owe their appointment to the executive branch of the Government, will generally feel influenced in such cases, even though men of the strictest honor in every other. Men during the time of public ferment, generally espouse one side or other. It is not often that characters, who differ in opinion from administration are selected upon such trials. In this case, how are impartial verdicts to be expected? They are called upon to decide, upon what? On sentiments they have already declared themselves enemies to. But supposing the truth is allowed to be given in evidence; it may only be *opinions*, how are their *truth* or *falsehood* to be determined? A decision in this case, would be as absurd as deciding which was the most palatable food, agreeable drink, or beautiful colour. A particular act of the administration appears to me unjust, and because I tell my opinion to my neighbour, write it to my friend, or communicate it to my fellow-citizens through the medium of the Press, therefore must I be punished; not because I have done evil, but because I have offended an individu-



al high in office ! Let common sense, if law does not, forbid such absurdity. However such proceedings may for a time be carried on, there is a certain point beyond which they cannot go. The sentiments of reason and truth will always ultimately prevail; those of an opposite kind, will be consigned to contempt and eternal oblivion. In vain may Government give them its support; in vain may pensioned hirelings or hungry expectants defend them with their prostituted pens; in vain may the law, armed with all its terrors of Jails, racks, gibbets or guillotines come forward to extirpate them from the face of the earth: If they be founded on Justice, if they be accordant with truth, they shall certainly triumph.

That this is the case, history sufficiently shews. A few out of innumerable instances, may not be deemed improper, to shew how illy calculated Government is to prescribe the channel in which public opinion shall flow.

Socrates for asserting the unity of the Deity, was put to death by the Athenian Government.

The opinions of the founder of Christianity were considered by the Jewish Government as destructive both of church and state. By them he was deemed a disturber of the public peace; or in modern language, a disorganizing Jacobin. A reward was offered for his person, and he who had declared that "his kingdom was not of this world," was put to an ignominious death, under the accusation of wanting to be king of the Jews.

The apostles who at the expence of their lives publicly taught the same opinions, had all the force of all the Governments where they preached, exerted against them; yet those opinions at last triumphed over this formidable opposition.

After the establishment of Christianity, and when

innovation was added to innovation, and absurdity heaped upon absurdity ; when the original principles of the gospel of Jesus were buried under an accumulated and accumulating mountain of superstitious dogmas : Then the church of Rome impiously declared her infallibility. All investigation of her doctrines, ceremonies, and worship was prohibited and anathematised. Burnings, massacres and persecution of every kind, only hastened the downfall of that proud and domineering mistress over the consciences and reason of mankind. In the first place, they served to hasten the period, and in the second to promote the progress of the reformation. Her splendid habiliments, sanctioned by time, were torn off, and she was exposed naked to an astonished world in all her native filthiness and deformity. Still diminishing in consequence and power ; we have seen her chief driven from his throne, and the most enlightened parts of the world have been those where the doctrines of the reformation prevailed.

Notwithstanding the unlimited power of the Star Chamber and of the High Commission Court in England under the reign of Charles the first, still it could not stifle the complaints of the people, nor could it prevent the progress of republicanism, and the destruction of the hierarchy, aristocracy, and monarchy of that country. And no sooner were the people convinced by ocular demonstration of the tyranny of Cromwell, than the same all powerful operation of opinion had force enough to make the usurper tremble for his life ; and even after his death, to restore monarchy again. What I here allude to, was a pamphlet published by Colonel Titus, entitled, "*Killing, no Murder.*" "Of all the pamphlets that came forth at that time, or perhaps of those that have since appeared, this was the most eloquent and masterly." "Shall we," said this

popular declaimer, "who would not suffer the lion to invade us, tamely stand to be devoured by the wolf?"—"Cromwell read this spirited treatise, and was never seen to smile more."\*

Charles the second, untaught by the fate of his unfortunate father, attempted to force Episcopacy upon the people of Scotland. Bishops and Curates were appointed and established, while the Presbyterian clergy were thrust from their churches and their flocks. The people were commanded to think as the court did; and were also prohibited from worshipping God in that way which they thought most acceptable to him. Soldiers were ordered to prevent their assembling in the fields, for the purpose of devotion, and when the people, driven mad by oppression of body, as well as mind, took up arms to defend themselves, they were massacred in every place where they could be found. By a monument erected in the Grey Friars church yard, at Edinburgh, it appears;—that under the reign of this debauched and dissipated tyrant, upwards of one hundred noblemen and gentlemen, besides others of inferior rank were executed in Edinburgh alone; and that for no other reason, than because they preferred a Presbyterian form of church government, and worship, to that of the present church of England; and also for refusing to acknowledge the spiritual supremacy of his most sacred majesty!!!

His brother, James the second, pursued the same measures in order to re-establish the church of Rome. The fate of both, is sufficiently known. The name of Charles is in Scotland consigned to that obloquy which ever attends the memory of a tyrant; and the bigotted James was driven from his throne and native land. The principles attempted to be sup-

\* Goldsmith's History of England.

pressed by “ *this pair of brothers*,” were triumphant ; while England and Scotland chose that form of religion which each thought best.

During the reigns of these brothers, it is computed, that upwards of 20,000 human beings were sacrificed upon the scaffold and the field, or perished by the still more horrid means of imprisonment, torture, and shipwreck ; and all this in Scotland alone. After the battle of Pentland Hill, thirty-five of the prisoners were hanged before their own doors, and ten others upon one gibbet, erected for the purpose in Edinburgh. After the just assassination (if ever there was one) of that detestible scoundrel Sharp, Archbishop of St. Andrews ; the Presbyterians were defeated at Bothwell Bridge with the loss of 700 killed, and 1200 taken prisoners. Of these 200 were condemned to transportation, and shipped for Barbadoes ; every one of whom perished by the way. Dragoons were ordered to scour the country, and hundreds were by them shot in the fields, and butchered in their houses. Women were tied to stakes within the sea mark at low water ; and so left to be drowned when the tide returned. “ Subjects who refused to comply with the *religious* and *political* maxims of the court, were hunted like wild beasts on the mountains. Hundreds after being put to the torture suffered martyrdom ; many retired from their native country, now the scene of persecution, to a voluntary exile in the wilds of Ireland. Others, after being scourged, maimed, and exposed to all the indignities and insults, to which malefactors are doomed, were transported as *slaves* to Jamaica and the American plantations.”\*

What an excellent companion a short history of the above transactions would make to Porcupine’s

\* See a work, entitled, “ Political situation of the Scots, &c.”

Bloody Buoy ; more especialy as they were done under a *regular and energetic Government* ; and by the command of one of the “ Lord’s anointed !”

The jealousy of the old French Government was sufficiently displayed in its tyrannical police ; its Coffee-House spies ; its Bastile, and other State-Prisons ; together with its infernal *Lettres de Cachet*. Though from political enmity to Britain, the Government assisted the Americans in procuring their independence ; yet they would not permit the American Constitutions to be published in France. Not many years before the Revolution, Louis the XVI. prohibited all English newspapers from entering his dominions. Notwithstanding all this jealousy ; notwithstanding these terrible obstacles which opinion had to encounter ; we have seen other opinions prevail ; we have seen that strongly fortified Government overthrown.

At an early period of the history of this country, attempts were made by the British Government to check the free publication of opinion. In 1734, John Peter Zenger, printer in New-York, was prosecuted at the instance of the Attorney General for the Province, on a charge of printing *Seditious Libels* in his newspaper. He was indeed finally cleared by a patriotic jury of his fellow-citizens ; but for this the Government deserved no thanks. They did whatever was in their power, both to condemn him, and prevent him from again exercising his profession. From that time, down to the period of the Revolution, every method was tried which was in the power of the British King and his Governors, to suppress that spirit of liberty and independence which at last was so gloriously triumphant.

Since George the Third ascended the British throne, the most pointed enmity to the Liberty of the Press has been displayed under every adminis-

tration. The trial of Mr. Wilks, author of the North Briton, and of the publisher of the elegant Letters of Junius, are sufficiently notorious. The Proclamation of the 8th May, 1792 against *Seditious writings*; and the trial of Thomas Paine which followed soon after, all only served as so many advertisements for the sale of the Rights of Man. Thousands of people read the celebrated political writings of this man; who, had it not been for the Proclamation and trial, would in all probability, forever remained ignorant of the existence of the author, and his works. And, thus it will ever be, when means like these are taken to suppress and silence arguments founded on reason and Justice. Although the principles of Republicanism have not yet triumphed in the British dominions; yet, such seeds are already sown, as in all probability will one day yield a luxuriant crop, productive of incalculable blessings to those countries themselves; and conducive to the happiness and peace of surrounding nations. The flame may be smothered, but the fire is still alive. The fate of an Hampden and a Sidney; a Muir and a Gerald; a Skirving and a Palmer, are not yet forgotten. The miseries of unhappy Ireland, are too deeply engraven to be obliterated; they are recorded in tears and in blood. May the example of their oppressors never serve as a precedent to the oppressed, when the days of retribution arrive!

Let it not be said, that the preceding relation of historical facts have nothing to do with the subject of this enquiry. They have much to do with it. They tend to prove, in the most incontrovertible manner, that there is always *danger* to be apprehended from Government interfering in the direction of public opinion. They also prove the omnipotence of opinion over the most energetic government that can

exist. They prove that the means are insufficient to the end; when governments put in practice that authority which they so frequently wish to usurp.

The inference then is plain. No human power can prevent the progress of opinion. To the operation of this all powerful principle, in conjunction with the LIBERTY OF THE PRESS, the people of the United States are as much indebted as to their swords for their liberty and independence. Had the right of speaking, writing, and printing been prohibited, the advantages of a change of situation could never have been made sufficiently apparent. It is true, oppression speaks in the most forcible language to the feelings of mankind. But, if *feeling* instead of *reason* is to govern our actions, they will be frequently erroneous and unjust. In this particular instance, if the passions alone had been the pilot of public exertion, it is to be feared, the final result would have been very different. The opposition to British usurpation was however begun upon principles of justice and common sense; and public opinion being allowed to have free operation, the result was worthy of the cause.

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#### CHAP. X.

*General reasonings from the foregoing premises.—  
Conclusion.*

**I**F there be any thing truly valuable in the enjoyment of liberty, that unrestrained Freedom of Speech and Press contended for in the foregoing pages, must be amongst the first of its advantages. Compare the situation of mankind previous to the art of printing being discovered. Contrast the

knowledge and information so generally diffused among the people now, with that almost universal ignorance which prevailed in ancient times. Contemplate the valuable discoveries in every art and science, and compare them with the crude and undigested theories of the dark ages. If after having considered these things, you can prefer ancient habits, customs or ideas ; then indeed, printing has been injurious, and we ought to wish for the return of the days of ignorance and superstition. But, if we draw a different conclusion, we shall most certainly prefer the present times, with all their yet imperfections, to those when *master* and *slave*, (or what amounted to the same thing) *lord* and *vassal* were the only distinguishing appellations among the human race. Those chains of feudal tyranny have been destroyed in most European countries, and the people are gradually rising to that situation which nature seems to have designed them to occupy. That the last of these is entirely owing to the diffusion of knowledge and information, is sufficiently evident from comparing the state of society in those countries where knowledge has made little or no advances, with that of those where arts and science have been cultivated.

No people of any country have experienced the happy effects of a free discussion on political subjects, more than the people of the United States. It is their interest to guard this important privilege with the utmost vigilance and care. It will be seen from the reasonings that have been adduced ; that being an inherent right, and of a nature not to be delegated ; it must of course always continue with the people. It will also appear, that this right is guarantee'd to them by the Constitution of their Government, and that while their legislators are allowed a perfect freedom of debate, without being



called to account ; it is absurd to suppose the people, divested of that which their public agents enjoy.

All the opponents of the Liberty of the Press, have sheltered themselves behind the specious veil of preserving the public peace. They say, licentiousness must be suppressed. Dangerous opinions in politics and religion must be guarded against ; otherwise the social order of society will be endangered. What, it may be asked, would have been the situation of mankind at this moment, had the subjects of religion and politics never been investigated? *Orthodox* and *Hetrodox* are words of very doubtful meaning. What is orthodox at Constantinople, is hetrodox at Rome, and what is deemed sacred and indisputable by the conclave, is termed superstition at Geneva. As it is in respect to religion, so is it with politics. Those who are in the administration of Government, will always defend its principles, and its actions ; whether it be that of a Turkish Bashaw, or a Prime Minister of England. Investigation is equally dreaded by both. Both are sufficiently aware that many imperfections exist in their systems of Government, and that many abuses are committed under them. It is however to be hoped, that the officers of Government on this side of the Atlantic will not again follow such pernicious examples.

The victory over British despotism by the people of the United States, was certainly a great and glorious event. At the expence of much blood and treasure they acquired the right of independent legislation ; and of forming a Government of their own choice. What the people have *made*, they may surely *mend*. The State and Federal Governments of America have many excellencies. Perhaps no country can boast, with justice, of enjoying an equal degree of liberty. Does it however follow,

that the Federal Constitution is the *best* that can be devised? Are there no faults in this instrument which it might be possible to remove? Is it the climax of all perfection? Its warmest supporters will not be hardy enough to answer in the affirmative. A bare *supposition* of its unalterable perfection, were it for a moment admitted, would prove too much. It would be asserting that mankind had now seen and examined the whole circle of political science. If this were the case, it ought to stop all enquiry and speculation; and the press ought no longer to investigate political subjects. If, however, it be admitted, that improvement may yet be made; why check, by restraining laws, the free operation of opinion, either with respect to principles or men?

It ought to be always remembered, that MAN is a *perfectable*, but not a *perfect* animal. He has interwoven in his nature, a principle of infinite advancement. He is capable of going on from improvement to improvement; but never destined to arrive at the end of his intellectual labours. If there was any fixed point, at which the improvement of man could stop, then indeed there would be an end to his researches; and investigation ought then to cease. That continual activity of mind which leads men on to investigate the circle of the arts and sciences with unceasing ardour, and which is communicated like our existence from one generation to another; all this would then be of no use. Could we suppose this barely possible; mankind so far from being made happy, would be deprived of the most valuable pleasures of which their nature is capable. They would be deprived of the contemplation of objects and designs conducive to the benefit of the species. If this reasoning be well founded it will naturally follow, that no limits can be assigned to our researches. Individuals die, but

the species is immortal ; and as the species, so are their improvements illimitable. How absurd then is it for people to talk of prescribing bounds to the progress of opinion, either in politics or religion ? In the last, Jesus Christ has said—" Let the tares grow up with the wheat." Who then are they who will dare to call men to an account for particular religious tenets ? It certainly belongs not to man, but to God !

Political opinions never can be destructive of social order, or public tranquility, if allowed a free operation. The law is at all times sufficiently energetic to punish disturbers of the public peace. When men are found guilty of this, let them be punished ; it is well. It is not then punishing *opinion*, it is punishing actions injurious to the peace of the community.

But some have asserted, that the people may know too much. That there are certain things they ought not to be acquainted with, even though true. That in some cases our enquiries may go too far ; and, that some things ought always to be concealed.

If *truth* can be in any case injurious to the interests of the community ; these objections might be allowed some weight. It however yet remains to be proved, that *truth* can ~~never~~ be *injurious*. All enquiries are supposed to have truth for their object. Let then those noble sentiments of Dr. Conyers Middleton, in the preface to his free enquiry be adopted by every enquirer after truth.

" In enquiries, therefore, whenever I perceive any glimmering of truth before me, I readily pursue, and endeavour to trace it to its source, without any reserve or caution of pushing too far, or opening too great a glare to the public. I look upon the discovery of *any thing which is true*, as a valuable acquisition to society, which cannot hurt or obstruct

the good effect of any other truth whatsoever ; for they all partake of one common essence, and necessarily coincide with each other ; and like the drops of rain which fall separately into the river, mix themselves at once with the stream, and strengthen the general current."

Setting aside the idea of the *perfectability* of man for a moment ; still there are arguments sufficient to support the necessity and justice of an unrestrained Liberty of the Press.

It is generally allowed, that the science of Government is not as yet sufficiently understood. But will it ever be better known, if it is not allowed to be investigated ? The same form of Government has existed in China for two or three thousand years. The reason of this is the ignorance of the people. Notwithstanding the praises bestowed upon it by the Abbe Raynal and other writers ; it is nothing more than a detestable system of legal tyranny. Such will all Governments become, if they are suffered to grow independent of public censure or applause. Abuses become sanctioned by time, and in proportion to their age, they acquire strength. The safest way to destroy them, is to attack them when young. It will be attended with the greatest safety both to Government, and the peace of the community. Notwithstanding all the care of the people in delegating power, still many things will afterwards be found wanting ; or improvements of some kind or other necessary to be made. Let then public discussion be unrestrained. The ideas of the first proposer may be improved on by succeeding writers, and from collision of sentiment, truth will ultimately be produced.

Sedition laws are less intended for the maintenance of public tranquility ; than for the defence of certain individuals. Nothing can be more pernicious,

nothing more dangerous. What individual is of that vast importance to society, that he should have a particular clause in the criminal code of the country, for his particular safety. Are not the laws already sufficiently powerful to punish every offence? If they are not, let them be made so; but never let that great principle of all law be violated:—“ *That of operating equally upon all, whether it protects or punishes.*” But Sedition laws violate this maxim. They prescribe certain modes of punishment, for certain supposed crimes, wherein a chief magistrate’s conduct has been arraigned. Every public officer is entrusted with power for the good of the community. If so, then his actions ought to be watched; and if they over-leap the bounds of the Constitution, the public ought to know it. But how shall this be known if public opinion is fettered? Besides, it is the interest of the magistrates and public functionaries themselves, to know the state of public opinion. It will in many cases serve as a guide to their determinations. It will enable them to distinguish their friends from their enemies. But few will the enemies of that government be, whose actions are directed by the rules of justice and the Constitution; and the tenor of whose conduct has always been expressive of the sincerest wishes for the public welfare. In all investigations of a public nature, personal invective ought, in justice, to be avoided. It has, however, unfortunately happened, that for some years past, a more frequent resort has been had by writers of all parties, to personal invective and abuse, than was either necessary or just. If men differ in opinion, surely the common rules of politeness ought not therefore to be thrown aside. In all cases, where difference of opinion exists, the investigation of truth ought to be the only object. Personal dislike to the individual, will never ope-

rate upon a great mind. It ought certainly never to have a place in public discussions; neither ought extraneous circumstances with which the public have no concern, ever to be brought into view. A practice of an oposite kind, so far from convincing, will tend to irritate, and fix error deeper in the mind. In order to convince, it is necessary to make it appear that truth, and not personal revenge, is your object.

But even should this impropriety sometimes happen, it ought never to be adduced as a proof of the licentiousness of the Press; nor used as an argument for the necessity of infringing its Liberty. It arises from the remains of that terror which was inseparable from the restrictions under which the Press laboured, for a long period after the discovery of printing. It is also a consequence of that fear which too often pervades the middle and lower class of mankind; of giving offence to some rich individual, or great man in authority. Let such, if investigating public affairs, boldly speak what appears to them to be true. Let falsehood never stain the political page; and let *great* men never be offended at *little* men for freedom of political investigation. Notwithstanding all that has been said to the contrary, the poor man has as much at stake, and is as much interested in the stability of government, as the richest man in the community. And if he thinks that any observations of his may be of advantage to his fellow-citizens, he has an equal right to communicate them. It is of no consequence to enquire who writes a paper or a pamphlet, where principles and not individuals are the subjects of investigation. The only reasonable enquiry is, are the principles contended for just? If they are, let them have their due weight; if otherwise, they will meet with their merited contempt. In all cases, however, where specific or

general charges are exhibited against an individual, or individuals; the persons name ought to be affixed to the publication. In this case, wilful calumny and abuse would never dare to make their appearance. He who had been once convicted of publishing a malicious falsehood, would forever after be deprived of the means of giving currency to his calumnies. Let not Government interfere. The laws of society, as before observed, are fully sufficient to the purpose.

If newspapers, and other publications, have lately teemed with misrepresentation, or with undeserved abuse of private or public character: If calumnies and invective dressed up in the language of billingsgate have been profusely dealt abroad instead of argument; what is to be done? Does it follow that we ought to be deprived of LIBERTY because it may be, or has been abused? Will justice not rather say, let misrepresentation be exposed by the force of truth. Let characters who have been unjustly accused, vindicate themselves by pointing out the falsehood of the charges; and let foul language be treated with that contempt it so justly merits. *In no case whatever use coercive measures.* Truth is at all times sufficiently powerful. Coercion may *silence*, but it never can *convince*.

It is the duty of both Government and people to act justly. Openness, sincerity, and candour, should characterise all their transactions. As men are so liable to error and mistake, they should be alike open to reason and conviction. Mankind being in a state of progressional improvement; they should avoid throwing any obstacles in its way. In a free and unrestrained Liberty of Speech and Press, many errors will undoubtedly be brought before the public eye; but, even these will not be without their use. When detected by accurate reasoning, the truth will appear with increased

lustre. The only danger to be apprehended, is from *investigation being fettered*, and error allowed to become rooted in the mind.

Let the whig and tory, the royalist and aristocrate, the republican and democrat, or by whatever other name the partizans of political parties are designated; let them, I say, be allowed to express their opinions, whether by speech or press, with the same unconstrained freedom with which men of science discuss their subjects of investigation. No more danger will result from the one discussion, than arises from the other.

An unlimited freedom in the exercise of religious opinions has been recognized in the United States. The good effects of this are sufficiently visible. We here see none of that superstitious enmity, and uncharitable fanaticism of one denomination against another, which is so prevalent in all European countries where *established religions* exist. This very circumstance, which we now see realized, was at no very remote period, deemed by many well informed men to be utterly impracticable. GIVE UNTO ALL OPINIONS THE SAME FREEDOM, AND THE SAME EFFECTS WILL FOLLOW.

## FINIS.

### E R R A T A.

Page 18 line 6 & 7 for Empyrean—read, Empyræum.

— 33 — 3 for Triennila—read, Triennial.

4 for Septiennial—read, Septennial.

— 34 — 9 (from the bottom) for held his hands—read, held up his hands.

— 35 — 8 for Grandenston—read, Gardenston.

— 37 — 12 for upon that Majesty's—read, his Majesty's; also in the following line, for his high—read, that high.













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